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DOCUMENTS ON KASHMIR PROBLEM

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VOL. VIII

Discovery Publishing House
NEW DELHI-110002

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First Published, 1991

@ *Editors*

ISBN 81-7141-155-X (Set)

Published by : DISCOVERY PUBLISHING HOUSE
4594/9, Darya Ganj, New Delhi-110002

Printed in India at Gaurav Printers, Maujpur Delhi-110053.

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Discussion of the India-Pakistan Question in the Security Council Meeting

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Introduction

The history and culture of Jammu and Kashmir were part of the pan-Indian civilization. It was partly due to geography, the Himalayas and the Western and Eastern ranges separating it from rest of the world, and partly due to the Brahmanical culture, with Sanskrit as the lingua franca, which gave it a unity in the eyes of the upper strata of society. From centuries, Kashmir remained free from racism, communalism and casteism even during the communal structure of Dogra Raj. The National Movement against the feudal exploitation, led by Sheikh Abdullah, which was started in 1930 and continued upto 194[illegible], was the result of the growth of national consciousness in Jammu and Kashmir. Various national leaders of India, including Pandit Jawaharlal Nehru and Maulana Abdul Kalam Azad recognized the democratic and nationalist spirit of this struggle. But British imperialists and the Hindu press tried to interpret and project it as a "result of the dispute between the Hindus and the Muslims". Inspites, this anti-feudal movement was participated by a broad section of peasants and artisans came out to fight in the streets. This insurgenc, of 1931 awakened the national aspirations of the Kashmiris, which ultimately helyed in the emergence of a composite Kashmiri culture without any emphasis on Muslim sectarianism. By 1939, every conscious member of Hindu, Muslim and Sikh community joined the national movement. The anti-feudal and anti-imperialist struggle reached another high pitch in 1946. The AJKNC launched the "Quit Kashmir" movement and submitted a memorandum to the Cabinet

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Mission of 1946 demanding absolute right to freedom from the autocratic rule of the Dogra house. The movement was to counter the threat of Muslim communalism that was spread in the wake of Pakistan movement of Muslim League. It also salvaged the tradition of secular nationalism in Kashmir, Launching this struggle for a decisive victory. Sheikh Abdullah, on 15 May 1946, reiterated at Srinagar that "the demand that the princely order should quit the state is a logical extension of the policy of "Quit India". When the freedom movement demands complete withdrawal of British power, logically enough the stooges of British imperialism should also go and restore sovereignty to its real owners, the people...the rulers of Indian states have always played traitor to the cause of Indian freedom. A revolution upturned the mighty Tsars and the French Revolution made short work of the ruling class of France. The time has come to tear up the treaty of Amritsar, and quit Kashmir. Sovereignty is not the birth right of Maharaja Hari Singh, Quit Kashmir is not a question of revolt. It is a matter of right". The Sheikh was arrested on the charge of sedition against the Maharaja. Following his arrest whole valley rose in an uprising. On 19 June 1946 Pandit Jawaharlal Nehru, Aruna Asaf Ali, Dewan Chaman Lal and Tilak Raj Chadha went to Srinagar to defend Sheikh Abdullah at his trial but were arrested by the Maharaja's administration. On his return to Delhi, Nehru complained to Gandhiji and Maulana Azad, the Congress President that people in Kashmir were grooning under the reign of terror. Mahatma Gandhi visited Kashmir in August 1947 as a guest of National Conference.

The 'Quit Kashmir' movement kept the Muslim communalism in Kashmir at bay. Immediately after independence and the creation of Pakistan Jinnah decided to wrest Kashmir by force and sent raiders for this purpose. The Maharaja of Kashmir was fled. Jawaharlal Nehru decided to send troops to rescue Kashmir on the request of the Maharaja on 24 October 1947. It was done after Kashmir had legally acceeded to India. On 26 October 1947 Sheikh Abdullah also formed a peace brigade and the peoples' militia to defeat the aggression

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of Pakistan in the valley of Kashmir. Sheikh Abdullah, the doyen of nationalism, succeeded in restoring Hindu-Muslim harmony in the valley when the rest of India was burning by communal holocast. There was a good rapport between Sheikh Abdullah, Mahatma Gandhi and Pandit Jawaharlal Nehru. Congress demanded the release of Shelkh Abdullah, and the establishment of popular government in Jammu and Kashmir. National Conference favoured accession of India without instrument of accession.

The Pakistan reacted sharply and contested the validity of the accession. India took the Kashmir question to the Security Council of the United Nations on 1 January 1948 [S/628]. Pakistan made counter complaint [S/646] but admitted that some tribesmen from Pakistan might be helping the "Azad Kashmir government". After debate the Security Council passed two resolutions [S/651 and S/654]. It appointed a three member Commission to investigate and mediate in the matter. On 13 August 1948 the UNCIP submitted a report to the Council in three parts [S/1100; S/1196, and S/1430]. Part first of the report contained provisions for a cease fire. Part two dealt with a truce agreement, and Part third with the holding of a plebiscite after the implementation of first two parts. India agreed but Pakistan did not. Later on both countries accepted the proposal submitted by the UNCIP to the Security Council on 5 January 1949 dealing with the plebiscite. The cease fire came into effect by 1 January 1949 and a cease fire line was agreed upon in July 1949. But a truce agreement could not be finalised due to opposite stands of both the countries.

The Security Council then appointed mediators. In 1949 General Mc Naughton of Canada was appointed as a mediator who's proposal was rejected by India. Sir Owen Dixon of Australia also could not succeed because he proposed the partition of Kashmir between both the countries rather than a plebiscite (S/1791). Frank P. Graham of the USA was the third mediator appointed in April 1951 also met with the same fate, however, he suggested a direct negotiation between India and Pakistan. He submitted five reports S/2375, S/2448, S/2611, S/2783 and S/2967.

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In July-August 1953 and in May 1955 the Prime Minister of both India and Pakistan started negotiated settlement which ultimately failed. After a gap of five years the Pakistan Foreign Minister F.K. Noon raised the Kashmir issue in the UN Security Council and call upon India to refrain from accepting any change in the new constitution of Kashmir—the State of Jammu and Kashmir is and shall be an integral part of the Union of India—and to accept a plebiscite (SCOR, 12th Yr., Mtg. 761). Mr. V.K. Krishna Menon, the Indian representative informed the Council that the conditions for holding a plebiscite changed in Kashmir. (SCOR, 12th Yr. Mtgs. 762, 723 and 794). The Security Council favoured plebiscite by adopting a resolution (S/3739) on 24 January 1957. On 21 February 1957 President Gunnar Jarring of Sweden was asked to act as mediator but India refused to accept him for the implementation of the UNCIP resolution, (S/2821).

Meanwhile the National Conference demanded special status and autonomy for Kashmir in the political—constitutional framework of Indian political system. Article 370 of the Indian Constitution granted Kashmir a special position. It produced a hostile backlash among the Hindi-Hindu fanatics including Sardar Patel and Hindu lobby which demanded conformity of minority to Hindu majority views as well as uniformity by force. In Kashmir this Hindu lobby started non-cooperation movement against the government led by Sheikh. It was supported by the Jana Sangh, the Hindu Mahasabha, the RSS and even by the Akali Leader Master Tara Singh and Mr. S.P. Mookerjee. They criticised Nehru's appeasement policy towards Kashmir. Mr. Mookerjee called this policy as "national liability". This non-cooperation was also supported by Jayaprakash Narayan and Acharya Kripalani. This fanning of the flame of Hindu communalism—especially, in Delhi, Uttar Pradesh and Punjab—resulted in the ambivalence in Sheikh's position about accession to India. Nehru succumbed before these reactionary elements ultimately. Sheikh Abdullah now came to the conclusion "that there was no middle course between full integration and full autonomy, and as the majority in Kashmir would not accept the first alternative, there was no choice but to accept the second."

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Finally on midnight of 8-9 August 1953, the popularly elected leader of Kashmir was dismissed and imprisoned in a most undemocratic and unceremonious fashion by violating the special provisions made in the Article 370 of the Constitution.

On 2 December 1957 Security Council passed a resolution S/3922 after considering the Jarring report and directed P. Graham to make recommendations (S/3984) to the parties for facilitating a peaceful settlement and for the implementation of the resolution of the UNCIP of 13 August 1948 and 5 January 1949. The Graham report was rejected by India.

During Ayub Khan's regime Nehru-Ayub talks commenced in 1959 and 1960. On 6 October 1960 President Ayub Khan gave a threat of Military settlement of the Kashmir Problems. Threats and counter threats continued till Chinese aggression on India in October 1962. Besides Pakistani slogan of *Jehad* President Ayub Khan put pressure on USA to exercise its influence for the settlement of the Kashmir issue. The matter was again raised in the Security Council on 1 February 1962 by Pakistan Permanent representative Zafrullah Khan who asked the Council to take up the consideration of the dispute and to secure to the Kashmiri people their right of self-determination (SCOR; 17 Yr. Mtg. 990). In the subsequent meetings of the Security Council (Mtgs. 1007 to 1016) Mr. Zafrullah Khan put forward his arguments in support of Pakistan's claim over Kashmir. Mr. C.S. Jha, India's permanent representative to the UN and Defence Minister Krishna Menon contested the Pakistani contentions (SCOR, Mtg. nos. 1009, 1011 and 1016) and supported by the U.S. representative and Indian position by the Soviet and Rumanian representatives. US and British representatives on 27 April 1962 tried to persuade the UN Secretary General U Thant for negotiating settlement. The issue was again raised by Mr. Plimpton, US representative, on 21 June 1962 and on 22 June 1962 when he succeeded in pursuading the Irish representative to introduce draft resolution which was vetoed out by the Soviet Union (SCOR, 17 Yr. Mtg. 1016) Prime Minister Jawaharlal Nehru expressed deep concern over the attitude of Great Powers—the U.S.A. and the U.K. After the Chinese invasion on India both Nehru and

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were imparted training by Pakistani officers. The subversive activities of the Pakistani infilterators continued till date. The cease-fire violations took place frequently. Both India and Pakistan accused each other for violation of cease-fire agreement. rn short Kashmir remained full disturbed between 1966 and 1969.

Pakistan protested strongly against India's measures to extend the application of Indian laws to Kashmir and described these contrary to the UNCIP and other resolutions of the United Nations. These bills, according to Pakistan, would give sweeping powers to the Indian Government to outlaw any organisation or any individual found guilty of questioning the India's sovereignty over any of the territories.

On 11 January 1968 Prime Minister Mrs. Indira Gandhi and Deputy Prime Minister, Morarji Desai desired to normalise relations with Pakistan by implementation of Tashkent Agreement but Pakistan did not respond favourably. Pakistan was insisting on "meaningful discussions on Kashmir". India's appeal to Pakistan for no-war pact' was turned down by Ayub Khan who described this proposal as "misleading" unless Kashmir dispute was solved. During the time Sheikh Abdullah and Mirza Afzal Beg were released from Jail on 3 January 1968. They demanded self determination for the Kashmiris. The hostile and anti-India attitude of Sheikh Abdullah put India in embrassing situation.

General A.M. Yahya Khan who assumed the charge from President Ayub Khan on 25 March 1969 showed his willingness for some time to establish a peaceful atmosphere between the two countries. Mrs. Indira Gandhi sent a personal letter to Mr. Khan on 22 June 1969 and suggested to revive the no-war pact proposal and a joint machinery to examine comprehensively all aspects of normalisation of relation. General Yahya Khan accepted the proposal with provision that the machinary of Indo Pakistani body should discuss all issues including Kashmir and Farakka barrage. But after the exchange of letters between the two governments, no follow-up actions could be taken up by either of the governments. Instead

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President Yahya Khan banned all the exchange of printe materials between India and Pakistan, commercial, economic and cultural relations were completely cut off Tashkent agreement, though Mrs. Indira Gandhi wanted to implement, went unsung and unheard. On 28 July 1970 President Yahya Khan again asked for amicable solution for Kashmir problem to establish cordial relations between both the countries.

Mr. Z.A. Bhutto advocated for quasi-military approach for the solution. Ashohar Khan recommended Algeria type struggle for Kashmir liberation. General Yahya Khan raised Kashmir's issue in UN General Assembly in October 1970 and demanded 'self determination' and withdrawal of forces of the two countries. India rejected the proposal and told that the State's accession to India in 1949 was complete. However, India favoured bilateral talks under Tashkent spirit. Mr. Z A. Bhutto exploited the situation by raising war bogy against India. He formed Pakistan People's Party on 1 December 1967. December 1970 polls in Pakistan brought conflict between East and West Pakistan, ultimately resulted into the creation of Bangladesh. India-Pakistan relations were further deteriorated when on 30 January 1971 an Indian Airlines plane was hijacked to Lahore with Pakistani connivance and was allowed to be blown up at the Lahore airport. Hijackers were granted asylum and were given hero's welcome there. India banned all Pak flights over the Indian territory. After India-Pakistan war of 1971 both Mrs. Indira Gandhi and Mr. Z.A. Bhutto on 2 July 1972 concluded an agreement at Simla. It was promised to respect line of control resulting from the cease-fire of December 17, 1971 in Jammu and Kashmir. They also decided to settle the Kashmir issue by mutual talks. President Zia-ul-Haq, Prime Minister Benazir Bhutto. Rajiv Gandhi, V.P. Singh and Sheikh Abdullah came and went but the Kashmir remained unsolved.

Documents on Kashmir Problem is an excellent attempt of authentic and comprehensive compilation of published documents and other literature on the subject—Kashmir dispute. It presents the text of important documents including publications of the Government of India and Pakistan, United

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Nations official documents, treatments, treaties, agreements, proposals, debates—both in UN Security Council, General Assembly—and Parliamentary debates— reports and recommendations, letters, telegrammes etc. The publication would help the research scholars, academicians, educationists, politicians as well as curious laymen in understanding the issue. Compilers have made an honest attempt to be objective and impartial in compiling, editing and presenting the documents to prove their authenticity the sources of documents are also added.

We express our deep sense of indebtedness to the library staff of Indian Council of World Affairs Library, New Delhi, Nehru Memorial Museum Library, New Delhi, United Nations Information Centre, New Delhi, Jawahar Lal Nehru University Library, New Delhi, and Ministry of External Affairs Library, New Delhi for the help rendered to us during our visits there.

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185. *Text of the speech made by Mr. Zafrulla Khan (Pakistan) in the Security Council meeting No. 1010 held on 4 May 1962.*

The speech of the Defence Minister yesterday ranged over a wide field, and this morning we have had the good fortune to listen to the views that the representative of the USSR has expressed on behalf of his Government. In both of those statements there are certain elements which, if left unchallenged or unexplained, might constitute a misunderstanding of the position of Pakistan. I have therefore ventured to request, Mr. President, that you kindly give me the floor to give such explanations as are called for, and I think you for acceding to my request.

Before I take up the specific matters that have been raised with reference to the merits of the case, whether it is by the Defence Minister of India or by the representative of the USSR, I want to isolate one matter mentioned by both representatives. It does not relate to the merits of the case and it has certainly this morning been put in the forefront of the observations of the representative of the USSR and was referred to by the Defence Minister yesterday afternoon.

It was said, and has been repeated this morning, that I voiced a threat, to the Security Council, of the use of armed force for the purpose of resolving this dispute, and I asked the Security Council to take note of it. Now, in the first place, the context in which I used the words that have been quoted was that the Security Council, when the matter was first brought before it by India, took the view that they are to concentrate, not upon determining the legality or otherwise of certain positions or attitudes or questions that had been raised, but, first, on bringing about accessation of the hostilities that were in progress, and, next, on reaching a Solution of the dispute between the parties.

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In the context of their first urgent concern—that is to say, to bring about the cessation of hostilities—they took up the position : "Why is the fighting going on ? And they came to the conclusion – and it was perfectly obvious—that the fighting was going on as the people of Kashmir desired to come a decision with regard to the accession, through the exercise of their own choice and not the Maharajaha's. Therefore, once that were assessed that their desire, their wish, their objective would be fulfilled completely through peaceful means they would realize that it was not necessary to go on fighting for it. Consequently, that was affirmed and reaffirmed, not only by the members of the Security Council, but also by the representatives of India and the representatives of Pakistan.

Now, that portion of my submission on Friday [1007th meeting] and it was on the faith of that assurance, those promises, and subsequently the obligation undertaken by both sides, that this question will be decided through the democratic method of a free and impartial plebiscite, that eventually the Commission succeeded in bringing about a cessation of hostilities.

I said that this matter had been pending for a long time. Frustration was being felt with regard to the pursuit of peaceful methods for its settlement, because no visible progress was being made. Therefore, people felt that, perhaps in the end, no solution would be found through peaceful methods. I expressed an apprehension, in the words that have been quoted, that, if the Security Council does not wish the people of Pakistan to get out of control, as a result of this sense of frustration, and that the people of "Azad" Kashmir should again have recourse to their battle for liberation—the President of 'Azad" Kashmir has already used that expression in public and Press statements which have been reported in the newspapers here and which some of the members of the Security Council may have seen—that the tribesmen should wish to plunge into the business again and that, as a result there would be chaos in that region—and in that case, it might not be possible for neighbouring Government to keep out of the situation that

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would thus be brought about, and not to plunge into the "vortex"—then, the Security Council had better address itself to promoting the settlement of the question through peaceful means.

I held out no threat whatever, of any kind. I represent here the Government of Pakistan. The Government of Pakistan is anxious to proceed toward settlement of this question on the the basis of the obligations undertaken by both sides. I have made it quite clear more than once—I may have to make it again later—that, if there is a difference with regard to what those obligations are, as there appears to be, not only between India and Pakistan, but also with regard to at least one member of the Security Council who has spoken this morning, it is useless to conclude, "Let it be ; it is finished". No dispute is decided by, "Let it be ; it is finished". It is an old adage : not only justice must be done, but it must be seen to be done. It is not enough—I am saying this for the sake of argument—that the interpretation that India puts on certain parts of the resolutions accepted by both sides, and the interpretations put on some parts of them this morning by the representative of the USSR, might turn out to be correct on fair and impartial determination ; it is possible ; a determination can go either way. If that should happen, I have said that Pakistan would at once rectify any default in respect of it that it might have committed.

Let me give an illustration. I will come to this question of interpretation and determination later. It has been said that under the resolution, Pakistan undertook to withdraw its forces from all parts of the territory of the State of Jammu and Kashmir before India was to withdraw any part of its forces. That is illustrative of the kind of difference that has arisen. Something was attributed to me which I did not say. But I will come to that later when I deal with this question itself. I am just using this as an illustration. Assume that a fair and impartial interpretation did say that that is so, that under the obligations assumed under the resolution by Pakistan, Pakistan

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do so ; this is the meaning of the resolution, this is what the Commission explained, this is the obligation undertaken by Pakistan, then Pakistan will at once start withdrawing its troops and complete the withdrawal within the shortest possible time, not seeking shelter behind any excuse whatsoever. Still, assuming all that, you cannot say that nothing further need be done because there is a difference of interpretation, because a long period of time has passed, because conditions on one side are very much better, things are very desirable, a great deal of progress has been made—and I will come to all that later. If you say nothing further need be done, all you are doing is ensuring the continuance of the dispute which still keeps two countries apart, two countries which, in spite of their geographical situation, in spite of the composition of their populations, in spite of all these differences still co-operate in many matters and could co-operate much more closely over the whole range of relations between two independent, sovereign States. Their relations still continue to be disturbed when it is said that nothing need be done. It will lead to further exacerbation, to further deterioration of relations to further increase in tensions, and the Government may not be able to help the situation. Time after time we have seen that happen in country after country.

And what threat was there in it ? Was there a threat that, if something did not happen by a particular date, the Pakistan Government would lead its troops into Kashmir, into the occupied part of Kashmir and renew the fighting ? The Pakistan Government has set a record in this case of seeking a settlement through peaceful methods, a record of which the representative of the Soviet Union appears already to be tired. Perhaps some other members of the Security Council are tired also and are thinking why go on ? Why go on knocking at a door which seems difficult to open ? But we must continue to go on knocking at the door, however difficult it may be to open, because if the door does not open there is no alternative left but for things to go on accumulating till an explosion occurs somewhere or other. However, this does not mean—and I

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repeat this again—that the Pakistan Government has at any time had any intention of seeking a solution of this dispute through the use of force.

I was invited by the representative of the Soviet Union, in this connextion, to give a guarantee similar to the one given by the Government of India. I will say one or two words with regard to the guarantee repeatedly given by the Government of India before I express myself on that matter.

I have noted the guarantee given by the Defence Minister of India yesterday afternoon. I do not question for one moment that that expresses the intention of his Government. But look at the record, Junagadh acceded to Pakistan. We were told yesterday afternoon, and I agree, that the question of accession is not a creation of the Indian Independence Act of 1947, that it results from the Government of India Act of 1935. The Government of India Act of 1935 sought to set up a Federation of India between the British Indian Provinces and the Princely States. Portions of it which related to provincial autonomy were put into effect in 1937, but difficulties arose in putting the federal portions, which related to the Central Government, into effect and that part of its never came into being. Had it done so, subsequent developments would have been entirely different. Therefore, although the idea of accession was part of that arrangement of the Federal Union, as a matter fact, nobody at any time urged anybody to accede to anybody else in any way.

Now, it was said that in accession—again, I have to revert to it later ; I am here dealing with the question of threats and the non-resort to the use of force—it was said that in accession all that was needed was that the ruler should sign the application form and the Head of State of one Dominion or the other to whom the form was addressed would say, "I accept". But what happened with regard to Junagadh ? What happened subsequently in Junagadh ? India occupied it by force and is in occupation today.

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No State was under compulsion to accede to one side or the other. The Indian representative went on, before the Security Council, with regard to Kashmir—and that I will come to later also—that they could choose freely to accede to one side or the other or to remain independent. Hyderabad, with 14 million people and an area as large as one of the principal States of Western Europe, did not wish to accede to Pakistan, so there was no question of Pakistan's coming into the picture. But they did not desire to accede to India either. They desired to enter into treaty relationships with India, bringing about a situation parallel to what accession would bring about, but only by treaty. And what happened there ? India led its forces in. Regarding Hyderabad, at any rate, I would not enter into any controversy. We are not concerned with it here ; it is not a parallel case. But a solution was adopted involving the use of force ; that is what happened.

Well, I am glad that now a categorical guarantee is given that India will not attempt the solution of this question through force. Statements have been made—statements which I quoted to the Security Council in my first letter [S/5058] and perhaps even in my second letter [S/5068], during the months of January, as well as later in my submission to the Council on 1 February [990th meeting], which would show to anybody distinctly that threats were being uttered with regard to attempting the vacation of the so-called aggression in the State of Jammu and Kashmir committed by Pakistan through the use of force. One of those statements, as I said, was by the President of the Congress in its annual session. There had been a massing of Indian forces within easy range of the Pakistan frontier. The Prime Minister of India, when asked about it in Ferozepore just across the river from Pakistan, said, "I do not trust Pakistan. I have, therefore, to keep these armed forces along the borders of Pakistan". Later, some of them went back again in the neighbouring province, but to the stations which they had occupied before the crisis arose. This kind of thing has not happened once ; it has happened at least three or four times. On no occasion has Pakistan responded with a

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similar movement. It has addressed communications or appeals to India, or it has mentioned the matter in the Security Council.

That is the record on both sides. Again I do not say that India may not have been justified, in the atmosphere of doubt and suspicion that exists, in taking the precautions that it took. On the other hand, Pakistan was justified in apprehending that the use of force might eventually be resorted to in the situation that had been created. That is how, as a matter of fact, the present discussions arose—not merely for the purpose of looking at the situation which had been created by these public declarations and the massing of forces, but in order that the Security Council could address itself once more to finding a way towards the peaceful settlement of this dispute which cannot be settled merely by saying that there is nothing to settle. The dispute exists. It will continue to exist. The longer it exists the greater the apprehension that something or other might lead to a sudden mount of tensions, and then even Governments become powerless to control the tensions.

So much about the threat. With regard to the guarantee, as I have already said, the Pakistan Government has no intention – and I mentioned that as a guarantee—to bring about a change in the situation through any except peaceful methods. It will always have recourse to peaceful methods for its settlement. But it is bound to warn the Security Council that the situation may not always continue to remain passive. Not that the Government itself will do something to convert it into a situation of tension, but tension might arise. That is not something which anybody should arise his eyebrows over. How can it happen ? It has happened. Governments are upset, new Governments take their place and new Governments can change policies. People get out of hand. There is nothing extraordinary in what I have mentioned to the Council. I have merely stressed that this is a live dispute and no live dispute can be settled merely by covering it up—as I said last time.

I propose now to address myself to some of the matters

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that were raised yesterday afternoon. I do not intend to take up every point that was raised, but mainly the points on which reliance was placed for the Security Council to draw some conclusion or other which was not only relevant to this dispute but also important in the context thereof.

With regard to the question of the relationship between what was British India, and subsequently became Pakistan and India, and the princely State, I understood the Defence Minister of India to have put forward a thesis. I do not know whether I completely apprehended what the thesis was, but so far as I was able to understand it—not that what he said was not clear, but I was not quite sure about the thesis itself—it was that this doctrine of paramountcy and suzerainty did not arise between India and any of the Indian States merely through accession, but that, with the withdrawal of the British from the sub-continent, the paramountcy with regard to the Indian States vested in the Government of India as a successor State. The Government of Pakistan, presumably, had nothing to do with it. Though the expression was not used by the Defence Minister of India, I think he was quite clear, that the Government of Pakistan had nothing to do with it because it was just a new State carved out of India ; it was not a successor State.

Although I do not claim that I have a mastery of international law with regard particularly to these aspects, I am unable to recall any justification anywhere, either in international law or with regard to what actually happened in the transfer of sovereignty, for the proposition that India inherited the paramountcy of the British any more than Pakistan inherited it. India and Pakistan were the two successor States—two Dominions created out of what was British India. Pakistan chose a new name. India kept the old name in English, although in the vernacular the name of that larger successor State in Bharat. The mere fact that India chose to retain the English name "India" did not make any difference to the actual or constitutional position that there were two successor States, on a much larger one with a much larger population and larger resources, and larger in the international setting, and so on,

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certainly, and the other smaller in all those respects. But nevertheless they were two independent sovereign States, both successor States.

It was said—perhaps as an illustration or even as an argument in support of India's having inherited the paramountcy in respect of all Indian States—that Pakistan had to apply for membership of the United Nations while India continued to hold the old seat. But that was simply a matter of agreement between the two. It did not result from the position that one was a successor State and the other was just a charitable creation. It had to be decided what should happen with respect to membership of international organizations. Either both should apply for membership of the United Nations—India already was a Member - or one should hold the seat that already belonged to the sub-continent and the other should apply anew for membership. Part of the agreement of partition between the two was that India should continue to occupy that seat and Pakistan should apply for admission. It was not the result of any constitutional doctrine or doctrine in international law that one was a successor State and the other was not.

But assume for one moment that the theory put forward by the Defence Minister of India has any basis. Then why is it that on 26 October 1947, Mr. V.P. Menon had to go to Delhi to find out whether India would come, according to the words used by him, "to the rescue of the Maharajah" by sending military forces ?—If there was already suzerainty and paramountcy, India was under obligation to do so. And why did Mr. Menon bring back the message to the Maharajah that India would send its forces to save the State or to rescue the Maharajah or rescue the State, as the case may be, in the emergency with which the State was faced, only if the Maharajah would apply for accession and if India was able to accept the accession and that, otherwise, they could not go to his aid ? If there was paramountcy and suzerainty already, not only could they go to his aid, but also they were under obligation to do so.

However, there is further clearer proof of the position

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that I have stated. The partition statement of 3 June 1947 authorized by His Majesty's Government, which announced how the transfer of power from Britain to India wouid take place, has, among other clauses, the following :

> "16. Negotiations will have to be initiated as soon as possible on the administrative consequences of any partition that may have been decided upon :
>
> "(*a*) Between the representatives of the respective successor authorities about all subjects now dealt with by the Central Government including Defence, Finance and Communications ;
>
> "(*b*) Between different successor authorities and His Majesty's Government for treaties in regard to matters arising out of transfer of power."...

Where is there a distinction that one of them is a successor State and the other is, well, something else ?

Paragraph 17 of this same statement says :

> "17. Agreements with tribes of the North West Frontier of India"—they have been referred to in another context a good deal yesterday afternoon and also in this controversy—"will have to be negotiated by the appropriate successor authority."

Who was "the appropriate successor authority." The Government of Pakistan ?

In addition, the preamble in Section 1 of the Indian Independence Act takes up the same position. The preamble says :

> "An Act to make provision for the setting up in India of two independent Dominions, to substitute other provisions for certain provisions of the Government of India Act, 1935, which apply outside those Dominions, and to

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provide for other matters consequential on or connected with the setting up of those Dominions."

No distinction here between India and Pakistan—there is one India. It continues :

"Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

"1. The new Dominions. (1) As from the fifteenth day of August, nineteen hundred and forty-seven, two independent Dominions shall be set up in India, to be known respectively as India and Pakistan."

Does that even it out on the question ?

Then, finally, Section 7, of the Act, which I have already read out and which is on record, provides quite clearly that from the appointed date all treaties, engagements, everything between His Majesty and the States will lapse. There is no question there with regard to any suzerainty or paramountcy vested either in one Dominion or the other.

The second question which I shall take up is the question of the accession on which the thesis that I put forward was to some degree not questioned, but the position obtaining today was questioned. It was said that all that was needed for final, irrevocable, unalterably accession was that the Ruler should offer accession and the Dominion to whom he offered it should accept it and that thereafter no change in it could take place. That is what is being said today : Thereafter no change in it could take place : it is unalterable. In the first place, what meaning then is one to attach to Lord Mountbatten's letter to the Maharajah in which he says that in consistence with the policy of his Government, where the question of accession is in dispute between the Ruler and his subjects—I am giving the gist

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of that part from memory, I am not quoting the letter that has been quoted – the decision must be made by the freely expressed wishes of the people and in accord with that policy, it is the wish of his Government that when law and order has been restored the wish of the people in that behalf shall be ascertained. What was it ? What meaning is to be attached to it ? It was the Governor-General's letter as the Head of the State. He was writing on behalf of his Government, it must have some meaning.

Then, on 6 February 1948, before the Security Council, Mr. Ayyanger representative of India stated this :

> "I would pass on to the remarks of the representative of Pakistan as regards the question of accession. These remarks appear in his speech to the Security Council during the 240th meeting. The representative of Pakistan said : 'India's reply and India's stand throughout has been : We accepted Kashmir's accession provisionally—for the moment—in order to deal with the emergency that had arisen ; and once the emergency was out of the way, the question of accession would be decided by the people through a plebiscite'."

He does not accept that as being quite accurate. He then goes on to set out his own version of what the position of the Government of India was – and that is important.

He says that that is not quite an accurate description of India's attitude. Now, here is the representative of India and he is being very careful that anything which differs even slightly from what is the correct position of his Government should be corrected at once, and what is the correction ? He says :

> "That attitude would be more correctly described in the following words : 'We accepted Kashmir's offer of accession at a time when she was in peril, in order to be able effectively to save her from extinction. We will not, in the circumstances, hold her to this accession as an unalter-

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able decision on her part. When the emergency has passed and normal conditions are restored, she will be free, by means of a plebiscite,' "

—and I emphasize "plebiscite" and will come back to that later, because yesterday the Defence Minister said that his Prime Minister—and I suppose he meant his Government also—had never used the word "plebiscite", had only used the expression "the will of the people" when that statement was made—

" 'either to ratify her accession to India or to change her mind and accede to Pakistan or remain independent. We shall not stand in the way if she elects to change her mind.' That "—he went on to say—"I think, is the proper description of India's attitude."

Mr. President, if it is convenient to adjourn at this stagel I would be ready to proceed when the Security Counci, reconvenes after lunch.

186. *Text of the speech made by Mr. Zafrulla Khan (Pakistan) in the Security Council meeting No. 1011 held on 4 May 1962.*

I am dealing with the question on which the Defence Minister of India yesterday [1009th meeting] took the position that Kashmir being a part of India, there was no question of its going out of India in any way. He brought in general theories also but the position was mainly on the ground of their Constitution.

I have already drawn the attention of the Security Council to the relevant portion of Lord Mountbatten's letter to the Maharajah and the statement made on 6 February 1948 before the Security Council by the late Mr. Gopalaswami Ayyangar.

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The Defence Minister said that Kashmir is as much a part of India as Gujarat, and he named one or two other States in India.

I shall now draw the attention of the Security Council to the statement made in the Indian Parliament on 26 June 1952 by the Prime Minister of India. I would also beg the Council to observe, not only the text of the statement, but the date on which it was made, 26 June 1952—four-and-a-half years after these occurrences had taken place and the so-called accession had been made, and nearly four years after the 13 August 1948 resolution:

> "...When we say that the people of Kashmir will decide, that does not limit the accession in any way. We put it on higher grounds. If, after a proper plebiscite, the people of Kashmir said, 'We do not want to be with India,' we are committed to accept that. We will accept it though it might pain us. We will not send an army against them. We will accept that, however hurt we might feel about it we will change the Constitution, if necessary. India is a great country and Kashmir is almost in the heart of Asia. There is an enormous difference, not only geographically but in all kinds of factors there. Do you think you are dealing with a part of U.P. or Bihar or Gujarat?"

Now, the Prime Minister here not only makes the position quite clear, but he makes a clear distinction between the States that were part of India and Kashmir, with regard to which there was an international commitment that the people will decide through a plebiscite.

Then, in its advisory opinion, the Permanent Court of International Justice, in the case of the "Treatment of Polish nationals and other persons of Polish origin or speech in the Danzig territory", handed down on 4 February 1932 had said this.

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> "It should however be observed that, while on the one hand, according to generally accepted principles, a State cannot rely, as against another State, on the provisions of the latter's Constitution, but only on international obligations duly accepted, on the other hand and conversely, a State cannot adduce as against another State its own Constitution with a view to evading obligations incumbent upon it under international law or treaties in force."

Article 13 of the "Draft Declaration on Rights and Duties of States" was adopted unanimously in the annex to General Assembly resolution 375 (IV) on 6 December 1949, on the basis of the recommendation of the International Law Commission, of which, at that time, Sir B.N. Rau, Constitutional Adviser to the Indian Constituent Assembly, was a member, and in which he concurred, Article 13 states:

> "Every State has the duty to carry out in good faith its obligations arising from treaties and other sources of international law, and it may not invoke provisions in its constitution on its laws as an excuse for failure to perform this duty."

Now, to go on to another topic. The Defence Minister of India appeared to attribute to me the statement, or the claim, or the argument, that because Kashmir has a majority of Muslims in its population, therefore it should belong to Pakistan. To the best of my recollection, I have never, throughout the course of these discussions, advanced this argument or this claim, and this applies to my last submission to the Council also. It is true that we have, among other facts, drawn attention to the composition of the population. We have stated that culturally the people of Kashmir are much more akin to Pakistan than to India. We have stated that Kashmir's lines of communication, as they existed at the time of the partition of the sub-continent, all went into Pakistan—the railway lines, the three rivers, the main road which was open all the year round: that economically Kashmir's integration was

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with Pakistan: and that, on the basis of all these factors, we could have urged that Kashmir should accede to Pakistan, but that we did not do so: that it is a matter which must be decided by the people of Kashmir. So if there is any doubt with regard to any statements made on behalf of Pakistan before the Security Council on that point, I clear it up here and now. This is our stand, that we have an international obligation and we think that on its merits—and also as a question of principle, since it is right in itself—this question should be decided through the freely expressed wishes of the people of Kashmir, and the method for that free expression of wishes has also been agreed upon by the parties.

On the other hand, it was India that raised the question of the composition of the population. We do not say they did not raise it properly, but they raised the question in connexion with the accession Junagadh. I shall draw attention only to two documents in that connexion, although there are several.

In his telegram No. 251, dated 22 September 1947, Governor-General of India communicated with the Governor-General of Pakistan. After setting out how his Government looked upon the unilateral action of Pakistan in accepting the accession of Junagadh, he went on to say:

> "The possibility of Junagadh's accession to Pakistan Dominion in the teeth of opposition from its Hindu population of over 80 per cent has given rise to serious concern and apprehension to local population and all surrounding States which have acceded to Indian Dominion."

We are not objecting that this question was raised. It is a relevant question, because here the telegram said that the Government of India considered Pakistan's action in this matter as being in utter violation of the principles upon which partition was agreed and effected. Everybody knows that it was effected on the basis of the majority areas of one community and the majority areas of the other community.

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But we have not made that claim in regard to Kashmir. Our claim is that the people should decide, in a free world.

Then, in his telegram of 8 November 1947, the Prime Minister of India said this to the Prime Minister of Pakistan:

> "...but it is essential, in order to restore good relations between the two Dominions, that there should be acceptance of the principle that, where the ruler of a State does not belong to the community to which the majority of his subjects belong, and where the State has not acceded to that Dominion whose majority community is the same as the State's, the question whether the State should finally accede to one or the other Dominions should be ascertained by reference to the will of the people."

Now I go on to the question of the plebiscite. It was, I think, stated by the Defence Minister of India that the Prime Minister of India had never committed himself to a plebiscite. I think he said the Prime Minister had never used the word "plebiscite", but at any rate he had never committed himself to a plebiscite. He introduced this topic by saying that the plebiscite is in any case not a very satisfactory manner of dealing with such questions. I shall not enter into an argument about this matter, but I will remind the Council that with regard to two portions of the subcontinent, that is to say what used in those days to be known as the North-West Frontier Province and, in the northeast, the District of Sylket, the provision in the Partition Agreement was that their inclusion in Pakistan or in India should be decided by means of a referendum. And it was so decided in each case. The referendum was held and the decision was taken in accordance with its result. So that the idea of a referendum between the two Dominions, especially with regard to partition, was neither foreign nor considered clumsy or impractical. It was resorted to and effect was given to it.

Now, we come to the question as to whether the Prime

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Minister of India has or has not committed himself to a plebiscite in Kashmir. In his telegram of 21 November 1947 to the Prime Minister of Pakistan, the Prime Minister of India first set out the principles on which the question of the accession of Kashmir could be decided, and then said:

> "...(iii) To undertake the plebiscite under its direction and control for the purpose of ascertaining the free and unfettered will of the people of the State on the question of accession; I have repeatedly stated that as soon as the raiders have been driven out of Kashmir or have withdrawn and peace and order have been established, the people of Kashmir should decide the question of accession by plebiscite or referendum under international auspices such as those of the United Nations. It is clear that no such reference to the people can be made when large bodies of raiders are despoiling the country and military operations against them are being carried on. By this declaration I stand."

The late Mr. Gopalaswami Ayyangar, when addressing the Security Council on 15 January 1948, said:

> "In accepting the accession they"—the Government of India—"refused to take advantage of the immediate peril in which the State found itself and informed the Ruler that the accession should finally be settled by plebiscite as soon as peace had been restored. They had subsequently made it quite clear that they are agreeable to the plebiscite being conducted if necessary under international auspices."

Again, on 3 February 1948, speaking before the Security Council, Mr. Ayyangar said:

> "As the Security Council is aware, the Government of India is fully committed to the view that, after peace is restored and all people belonging to the State ave returned there, a free plebiscite should be taken and the people should decide whether they wish to remain with

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India, to go over to Pakistan or to remain independent, if they choose to do so."

I would also draw the attention of the Security Council to the words "or to remain independent, if they choose to do so". The word is "remain", they have not to become independent. Where is paramountcy?

The Prime Minister of India, addressing the Constituent Assembly of India, as it then was, on 5 March 1948 said this:

> "Even at the moment of accession we went out of our way to make a unilateral declaration that we would abide by the will of the people of Kashmir as declared in a plebiscite or referendum. We insisted further that the Government of Kashmir must immediately become a popular Government. We have adhered to that position throughout and we are prepared to have a plebiscite, with every protection for fair voting, and to abide by the decision of the people of Kashmir."

Again, on 11 September 1951, in a letter addressed to the United Nations representative, the Prime Minister said this:

> "As regards paragraph 4, the Government of India not only reaffirms its acceptance of the principle that the question of the continuing accession of the State of Jammu and Kashmir to India shall be decided through the democratic method of a free and impartial plebiscite under the auspices of the United Nations, but is anxious that the conditions necessary for such a plebiscite should be created as quickly as possible."

I should like to be permitted to quote an extract from *The Statesman*, a well-recognized paper of long and respectable standing. I should like to quote from it a statement of the Defence Minister of India himself, dated 2 August 1951, Mr. Krishna Menon said:

> "No one is more devoted to peace at the present time

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> than our Prime Minister. It is not the intention of the Government of India to go back on any commitment it has made. We adhere strictly to our pledge of plebiscite in Kashmir—a pledge made to the people of Kashmir because they believe in democratic government...We do not regard Kashmir as a commodity to be trafficked in."

Then, in a joint Press communique issued by the Prime Minister of India and the Prime Minister of Pakistan on 20 August 1953, it was stated:

> "The Kashmir dispute was specially discussed at some length. It was their firm opinion"—that is, the opinion of the two Prime Ministers—"that this should be settled the accordance with the wishes of the people of that State with a view to promoting their well-being and causing the least disturbance to the life of the people of the State. The most feasible method of ascertaining the wishes of the people was by fair and impartial plebiscite."

I now come to the question to which the Defence Minister was pleased to devote a good deal of time, that of aggression, and he took it up in two parts: aggression by the tribesmen and aggression by the Pakistan regular Army units going into the "Azad" Kashmir area. With regard to what is known as the incursion of the tribesmen, I think it is only fair that one should keep in mind the background of conditions prevailing at that time over the greater part of the subcontinent, especially in the northwest. The conditions were that so far as Pakistan was concerned, even the civil administration was not yet in proper running order. The situation was that India took over the buildings, the machinery the offices and so on. It was done by agreement: I am not mentioning this as a grievance, it was part of the circumstance then; but India did take over a running machine. Pakistan, so far as the setting up of a Central Government was concerned, had to start from scratch. Everything had to be provided and the state of public order, unfortunately, both on the Indian and on the Pakistan sides of that region was such that two of the special trains bringing

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official records, and probably even pens and pencils and ink and such things from New Delhi were bombed on the way, Several of the ministries that had to be set up did not even have chairs, stools or benches for the officers or clerks to sit on. They did not have the paper and pencils with which to work. That was the condition of the civil administration.

On the other side, the army which could be the principal instrument of controlling this kind of eruption that took place, was still being sorted out. There was an Indian Army to which reference was also made by the Defence Minister of India yesterday with regard to the difficulty of getting together units for them when they decided to go to the assistance of the State. He said that they were still being sorted out, some were to go to Pakistan, some were to remain in India. Much more so was the condition on the Pakistan side of those units that were based there. Sometimes even small units were composed in such a way of both communities that they had to sort them out and send part of the personnel to one side and part of the personnel to the other side. That was the situation.

In addition, as our very first written representation to the Security Council in January 1948 would show, because that was one of the problems which Pakistan raised before the Security Council, we had not received our share of arms, ammunition and equipment for our army. The whole thing was in a helpless condition of confusion.

Then, as I have said, the happenings in West Pakistan and along its borders on the other side—and again I want to make it quite clear that what happened in those days was a disgrace to humanity—showed that no disinction could be made. People seemed to have sunk below the level of beasts. Excesses of every type were committed on both sides, with noble examples shining out in the intense darkness of people putting their own lives in danger and sometimes laying down those lives, in order to protect the members of the other community.

So there was courage also, there way heroism, there was

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devotion to friendship, to human relation-ships or to principles of humanity. But by and large, it becamea raging sea of beastliness. In Lahore the conditions were such that though there was a provincial government, it was helpless in dealing with the train upon train that came in loaded with refugees with people, with corpses of people who had been killed while in the train, people who were maimed, children with their hands cut off, their eyes gougedout, women with their breasts cut off and all that.What took place on both sides was to the shame and disgrace of all of us.

In that condition, this tribal incursion was goving on and, no doubt, during the trouble in question all those things happened, as the Defence Minister of India said yesterday but he seemed to imply that somehow it was the Pakistan Government that was doing that, or at any rate that it was inciting it or encouraging it.

He himself drew attention—and I appreciated his doing it—to one heroic act on the part of one of the people commanding the tribal levies themselves. I would draw attention to another, and I would do so because there seems to be some misunderstanding with regard to what the position was at Baramulla. This is a letter written by the Mother Superior of Saint Joseph's Hospital, Baramulla, Kashmir, addressed to Begum Shahanawaz and her daughter, Miss M. Shahanawaz. I quote from the original of the letter, which was written on 1 January 1948 :

> "We cannot let this season of greetings pass without sending you a very affectionate remembrance from us all with our prayers and every best wish for a very happy New Year and God's blessings on all your undertakings. We will never forget how you two brave girls of the Pakistan Voluntary Service risked your lives to save us from Baramulla when the bombing and the machine-gunning from the air made our situation these dangerous and impossible."

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This bombing was not by the tribesmen : this machine-gunning was not by the tribesmen : the tribesmen had no aircraft of any kind. It may well be understood by whom it was but again I am not apportioning blame. Perhaps it was necessary, but anyway it constituted a danger. The letter goes on :

> "Be sure we shall never forget you and we want to come to see you again. We have been so busy making clothes for ourselves and working at war refugee camps."

this was within Pakistan—

> "We hope to go back to Baramulla soon. Otherwise I think we shall all join the Hazara Kashmir forces."

The Hazara Kashmir forces were not the Indian forces : they were on the "Azad" Kashmir side. Here is a lady who, it was said, was subjected. with those under her protection and control, to conditions of all kinds that were created it is implied by Pakistan. But here they are writing from Pakistan to two Pakistani woman. Their wish was to go back to Baramulla at once, and if they could not go they would join the Hazara Kashmir forces. Their letter concluded :

> "Please accept a very tiny present we have made for you as a sign of our gratitude and remembrnce of you both. Yours affectionately, Mary Philippa."

There were these instances also. Here are these two woman from Pakistan who were trying, like so many others, to assuages the distress, the misery and the suffering that was brought about by these conditions all over.

I referred last time I spoke to the happenings in some of the Indian States. As a matter of fact, with regard to Patiala, there was so much excitement among the tribesmen themselves that many of them, knowing that they were only in Kashmir, and having not much idea of the geography of that part of the country, were asking, "How far is Patiala", because they had

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heard what kind of things had been going on in Patiala and their ambitions seemed to be to go there. There was all this excitement all around. It was not the doing of any particular Government. To the Pakistan Government it was said—and the charge was read out—"You may not have done this or incited this but you did nothing to control it." Which Government, in the position in which I have said the country was, with no military forces available and with the civilian administration not yet in proper running order could have done anything against this sort of cyclone of misery that was sweeping over the land ? Impliedly, the Defence Minister also stated with regard to one or two incidents that the Foreign Minister of Pakistan had said that he had no personal knowledge of these instances. The Defence Minister said, "It is surprising : Foreign Minister of a country, and he has no knowledge of these incidents." But he was obviously under a misapprehension, and I want to correct him with regard to the dates. I was not the Foreign Minsster of Pakistan when all this was happening, and I was not even in Pakistan at the time. I was a way, and I received news abont this. I received news of my own home being looted and of my people being driven out from their homes. I have never seen that home since I left India about 4 September. I was mourning with everybody else all that was happening but I was not in Pakistan. I was holding no public office. I became Foreign Minister of Pakistan on 26 December 1947, six days before the complaint of India was filed before the Security Council in respecr of Kashmir.

Then what did Pakistan try to do anyhow ? Did we do nothing at all ? This is what we tried to do. On 4 November 1947, in a telegram to the Prime Minister of Great Britain, the Prime Minister of Pakistan set out the steps proposed by Pakistan to deal with this situation. There was at Lahore, on 1 November, a meeting of the Joint Defence Council of both sides, to with Lord Mountbatten came from Delhi and Mr. Jinnah had come from Karachi. At that meeting certain proposals were submitted to Lord Mountbatten, who agreed to put them to his Government. These are the proposals that were made to deal with that situation :

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"1. To put an immedite stop to fighting the two Governors-General should be authorized and vested with full powers by both Dominion Governments to issue a proclamation forth with giving fourty-eight hours' notice to the two opposing forces to cease fire. The Gavernor-General of Pakistan had no control over the forces of the Provisional Government of Kashmir or tribesmen engaged in the fighting, but he will warn them inthe clearest terms that if they do not obey the order to cease fire immediately the forces of both Dominions—that is to say Pakistan and Indi ı—"will make war on them.

"2. Both the forces of the Indian Dominion and the tribesmen to withdraw simultaneously and with the utmost exedition from Jammu and Kashmir State territory"

"3. With the sanction of the the Dominion Governments the two Governors-General to be given full powers to restore peace, undertake the administration of Jammu Kashmir State and arrange for a plebiscite without delay under their joint control and supervision."

When, for two days no reply was received from Delhi, the Prime Minister of Pakistan sent a telegram direct to the Prime Minister of India in which he repeated these proposals and reminded him that he had sent them. In brief, the action that was suggested was that the Governors-General should be authorized by their respective Governments to act jointly in this matter. They would call upon both sides who were fighting for an immediate cease fire, and they would warn them that if, within forty-eight hours, there was not a cease fire the two armes—the army of India and the army of Pakistan—would drive the tribesmen out. And, after that had been done under the authority of the two Governments, the two Governors-General would hold a plebiscite.

What could be fairer, and what more could be expected in

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the circumstances ? But there was no reply from the Government of India.

Then we come to the Security Council resolution of 17 January 1948, which both sides accepted. That resolution :

> "*Calls upon* both the Government of India and the Government of Pakistan to take immediately all measures within there power (including public appeals to their people) calculated to improve the situation, and to refrain from making any statements and from doing or causing to be done or permitting any acts which might aggravate the situation ;
>
> "*And further requests* each of those Governments to inform the Council immediately of any material change in the situation which occurs or appears to either of them to be about to occur while the matter is under consideration by the Council, and consult with the Council thereon."

It may be recalled that the Council started the hearings of this question on 15 January. Two days latter it passed this resolution addressed to both sides. But that time the Council must have realized that the debate would continue for a long time and that the members would have to take time for consideration and then propose some settlement of the dispute. In any case, the Council passed this resolution for the interim purpose of ensuring that things should more or less stay as they were or, at any rate, should get no worse. And it was part of that interim arrangement that while the matter was under consideration by the Council was to be notified and directions sought from it if any changes of that character took place. Both sides accepted this resolution.

Now, what happened ? I think a couple of minutes will be necessary in order to tell you. I will not take any more time than is necessary. I think it will not be denied that India made an effort to have the Council direct Pakistan to take

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very possible measure to drive the tribesmen out of Kashmir and leave every-thing else to arranged by India itself. The Council refused to take that position. I believe I have drawn attention to that previously. The Council said that a military solution is not a solution that a solution must come by agreement, through peaceful methods. When the first resolution was proposed, the Indian delegation withdrew. They went away to India for some weeks and then came back. At that point, the original resolution was no longer being talked about, although the six sponsors had spoken in support of it. Then on 21 April 1948 the second proposed resolution was passed. India did not accept it but the Security Council adopted it anyway and set up a Commission in pursuance of it. The Commission went over there : I need not go further in to the matter.

By the time that this latter resolution had been passed and that phase of the proceedings before the Security Council had come to an end, the application of this resolution had also come to an end, because the period had passed while the matter was under consideration by the Security Council.

India had made up its mind to achieve a military solution of the problem. I shall quote the statement of no less a person than the then Defence Minister of India on 15 March 1948. I believe he was speaking in the Indian Constituent Assembly. He announced there that the Indian Army would clear out all resistance from Kashmir's soil in the next two or three months. Now, what did that indicate? That meant that a major military offensive was in the course of being prepared. *The Times* of 13 April 1948 reported from its special correspondent:

> "The Indian Army has worked extremely hard during the winter months and its position has been much improved. In spite of snow-storms and rain and the resulting drifts, mud and landslips, it has doggedly moved up supplies and reinforcements, improved roads and airfields and intensified the training of its troops. Logistically, it has won a notable victory, but even now in April, traditionally the month for a spring offensive, this necessary phase has

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not been completed. The road between Jammu and Srinagar, which winds over the Banihal Pass, is still snow-covered and convoys are often snowbound. To improve communications a daily air service has been organized although weather conditions will make flying unsafe for at least two or three weeks. But the force has been considerably strengthened and it should soon be ready for a limited offensive. Already some units have advanced from Rajauri in Jammu and from Uri and some small successes have been reported. Fighting is bloody. Few prisoners are taken and acts of barbarism have been committed by both sides. Many Pathans have been decapitated by Sikh troops."

Again, I am not making a complaint, I am drawing attention to the situation that actually existed at that time. At that time, a week after this report in *The Times*, and more than a month after the statement of the Defence Minister in the Constituent Assembly, General Gracey the Commander-in-Chief of the Pakistan Army, to whom reference was made yesterday by the Defence Minister of India, made a report to the Government of Pakistan on 20 April 1948. The substance of it was that if the Government of Pakistan did not take action to ensure that a certain defensive line be held, further progress of Indian troops would not only put the "Azad" Kashmir area in danger, but also endanger one of our irrigation works on the Jhelum River, which at that point diverges over the mountains into the territory of Pakistan.

He also raised the question of the security of Pakistan itself. I will read only a brief passage of General Gracey's report:

"*Recommendations*: 7. If Pakistan is not to face another serious refugee problem with about 2,750,000 people uprooted from their homes: if India is not to be allowed to sit on the doorsteps of Pakistan to the rear and on the flank at liberty to enter at its will and pleasure; if civilian and military morale is not to be affected to a dangerous extent: and if subversive political forces are not to be

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encouraged and let loose within Pakistan itself, it is imperative that the Indian Army is not allowed to advance beyond the general line Uri-Poonch-Naushera.'

When the question was raised in the Security Council—it had been raised once or twice, but I thought I had better reply to it—I made a statement to the Security Council on 8 February 1950, in which I stated:

> "I put it to the representatives on the Security Council that if they, in their respective spheres, were charged with the responsibility of the defence and the security of their own countries, and they received this report from their Commander-in-Chief—and in this case it was not a Pakistan national who had made the report: the Commander-in-Chief was and is General Sir Douglas E. Gracey, a distinguished British officer—if they had received this report which everything else reinforced and supported: the reports of foreign observers to their newspapers, the speeches of Indian statesmen and their Defence Minister both in public and in the Constituent Assembly, and if they were convinced that this was the situation, what is the very least that they would have done in the circumstances? Pakistan did that very least and no more. It sent in its troops to hold that line."

I said a great deal more, but I need not repeat that to the Council here, since I am going to summarize it in my next observation.

Then it was said, "Why did you not, under the Security Council resolution of 17 January 1948, which places upon you the obligation to report any change of this character while the matter is under consideration by the Council, consult with them thereon?" The Council had, by that time, concluded its consideration of the case, had set up the Commission and the matter had been placed under the Commission's care. Moreover, did India inform the Council of all the preparations that it was making, of the decision which was announced to the

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Constituent Assembly by its Defence Minister that during the next two or three months they would clear the entire State of anybody who had entered? Did they inform the Security Council that they intended to do that? Then they said that we did not inform them that we were going to do it. No answer to that is necessary.

We, did however, do something else. The resolution setting up the United Nations Commission for India and Pakistan was passed on 21 April. The Commission was organized in May and as soon as it was organized in Geneva, it studied the documents and determined the procedure that it would follow. We had no intimation of what its programme would be, except that a few days before its arrival in Karachi on 7 July, they asked to call on me on 8 July in order to make a courtesy visit. The moment they arrived, I presented the entire situation to them.

The Defence Minister said yesterday that I did this "in confidence". There was no question of doing it in confidence. I did not, like the Indian representatives in 1949, lay any embargo upon the Commission. I did not say: "I give you this information, but do not disclose it to anybody." I told them that this was the situation. In the meantime a change had occurred: we did not notify the Security Council because the Council had concluded its consideration of the case, and we had been waiting for the Commission to come. The Commission in its report has said that it had organized itself by a certain date, perhaps in May or June, implying—they do not say so in express words, but implying—that they could have been informed earlier. We did not know that they had organized themselves in Geneva and we did not know what time they would be coming. We did not know their programme. But, in any case, as soon as they arrived, the fullest possible information was given to them. I think I had the maps ready, and everything else, and it took me over an hour to explain the situation to them.

I repeat that twice the Defence Minister yesterday said "in

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confidence". Where he takes that from, I do not know. I did not give them any information in confidence. I informed them, as representatives of the Security Council who were dealing with this question, of the material change that had taken place in the situation, and I did not suggest, in word of gesture or tone, that it was only for their information. I knew that anything placed before the Commission was placed before them to consider in the context of the whole matter. Let me add that the Commander-in-Chief, Sir Douglas Gracey, gave them a military appraisal of the whole situation.

The Defence Minister said that the Permanent Representative of Pakistan had stated that he would accept the determination of either side's default in the implementation of the resolutions as made by any outstanding authority, any fair and impartial authority. And then he quoted what Sir Owen Dixon said in his report to the Security Council.

In the first place, what I had said was: Let a fair and impartial determination be made of why implementation of the resolutions is held up, and if it is found that it is held up owing to the default of Pakistan, then Pakistan will speedily and within the shortest possible time rectify the default.

The Defence Minister of India quoted Sir Owen Dixon—and started his quotation in the middle of the sentence. He quoted from here: " I was prepared to adopt the view that when the frontier " But the whole sentence runs like this: "I took up the positions,"—when this matter was raised before him—"first that the Security Council had not made such a declaration:"—a declaration that Pakistan was an aggressor—"secondly that I had neither been commissioned to make nor had I made any judicial investigation of the issue:"—and he was held up as a great judicial authority who had come to this conclusion, and it is part of the same sentence which was quoted—"but thirdly that, without going into the causes or reasons why it happened, which presumably formed part of the history of the subcontinent. I was prepared to adopt the view"—that is, for the purpose of going on with the discussions

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with the Government of India—"that when the frontier of the State of Jammu and Kashmir was crossed, on I believe 20 October 1947, by hostile elements, it was contrary to international law"—and that the entry of Pakistan troops was contrary to international law. But that is a hypothetical opinion: it is not a finding. And he said:

> "I therefore proposed that the first step in demilitarization should consist in the withdrawal of the Pakistan regular forces commencing on a named day. After a significant number of days from the named day, then other operations on each side of the ceasefire line should take place and as far as practicable, concurrently. What number of days should be fixed as significant was a matter of detail for them to settle."

This was not accepted by India.

Then, in one of the concluding paragraphs of his report, Sir Owen Dixon said:

> "The question whether Pakistan had or had not been an aggressor had, to my mind, nothing to do with the results of a partition and the fairness and freedom of a partial plebiscite. To agree that Pakistan should take under a partition part of the State must be to agree that, independently of any such question, it took not merely an interest in but sovereignty of the territory. Again, as I saw the matter, to agree that the territory not immediately divided between India and Pakistan should pass to one or the other according to the vote of the inhabitants at a plebiscite conducted by the United Nations must be to agree to a text involving an equal interest in both countries in the result. Further it is to agree to the ascertainment of the will of the people by an independent authority because that authority will see that the plebiscite is freely and fairly conducted."

His general conclusion with regard to his conversations

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with the Prime Minister of India was:

> "In the end I became convinced that India's agreement would never be obtained to demilitarization in any such form, or to provisions governing the period of the plebiscite of any such character, as would in my opinion permit of the plebiscite being conducted in conditions sufficiently guarding against intimidation and other forms of influence and abuse by which the freedom and fairness of the plebiscite might be imperilled."

That is his finding.

A reference was made to the so-called northern areas. In so far as the northern areas are concerned, I can make this statement, which I think should satisfy the Council: that there has been no change on the "Azad" Kashmir side of the cease-fire line. Those areas to which reference was made are all on the "Azad" Kashmir side of the cease—fire line, and, with regard to the cease-fire line, there has been an assurance given by the Commission to Pakistan that no civil or military officer or personnel of the Maharajah's Government would be permitted to cross the cease-fire line into the "Azad" Kashmir side. How can there be a grievance that their authority has been repudiated? The whole of that area has been under the authority of "Azad" Kashmir or of Pakistan. That is the situation. We have made no change since the cease-fire line was laid down. India never had any troops there.

I now come to a very important matter: the interpretation and the implementation of the resolutions. I was very sorry to hear the representative of the USSR, in his statement this morning, attribute to me something which I had not said, and then put an interpretation upon the relevant portion of the resolution which it cannot bear. He said that I had been insisting that the withdrawal of Pakistan forces from the "Azad" Kashmir side, and of the Indian forces from the Indian-occupied side, should begin together. I have never said that, I have never asked for that. Each time, I have been careful to

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say—and if afterward I have spoken generally, it is always under that proviso—that the resolution provides, and therefore it obviously means, that, once a truce agreement has been reached and has been published, then, so far as this withdrawal is concerned, Pakistan is to begin the withdrawal: and, when it has been notified to the other side that Pakistan troops are being withdrawn, then the other side will begin the withdrawal of the bulk of their troops; but, from there onward, the whole operation will be synchronized. And that is exactly what the Commission has said, and the other side knew that was the position.

Yesterday, the Defence Minister of India also stated that since the first part of the resolution has not been complied with, how can you go to the second part ? And he said : True, the Commission has said the first part has been complied with, but at what date ? They said it when so, and subsequently there has not been compliance.

In my opening submission to the Security Council on this matter [1008th meeting], I submitted that in his fifth report, the United Nations Repesentative had made the statement that the first part had been complied with ; but in February 1953 he also stated further—and this is very important : "The representatives of India and Pakistan, assuming part I (Cease-fire order) of the UNCIP 13 August 1948 resolution had been implemented, began discussion of part II."

The representatives came before the United Nations Representative. Both sides stated that part I has been implemented. He said : All right, let us begin with part II. Now the question is raised that it has not been implemented. With regard to the portion upon which particular stress is laid in this respect and which relates to the augmentation of forces, that is a very technical matter, as I said yesterday. But there is a very easy way of determining whether augmentation has taken place. Ever since the cease-fire, United Nations observers have been posted along the cease-fire line. It is their business to see that the conditions of the cease-fire are observed. Their Com-

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mander, General Nimmo, has been incharge for many years. He knows the whole question inside out. The Security Council has only to request General Nimmo to report whether an augmentation of the forces on either side has or has not taken place. That is the report to be acted upon and that will show whether or not there has been compliance with that part of the resolution.

Now as to the question of synchronization, I wish to draw attention to a statement in the third report of United Nations Commission for India and Pakistan :

> "The Commission did take into account Pakistan's concern that the withdrawl should be synchronized." —this is not my expression ; they have used it in their report—"It repeatedly assured the Pakistan Government that this would be evident in the agreement itself, and it must be noted that the terms were to be published in full immediately upon the acceptance of the two Governments."

> An agreement has to be drawn up. This morning I was told by the representative of the USSR that somehow Pakistan was in default because it insisted that a truce agreement should be drawn up. But the resolution lays that down clearly and this is what the Commission goes on to explain :

> "The withdrawal plan for the Indian forces, a part of that agreement, was consequently, to be published in advance of implementation by either side."

This is plain English. There is nothing mysterious about this. My duty to begin to withdraw the Pakistan forces was to begin after the truce agreement had been published. The truce agreement would contain the timetable for the withdrawal of the bulk of the Indian forces from the other side. True, according to that plan I should have to begin to withdraw, but then when the other side had been notified that was being done,

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they were to have begun on their side and there-after the whole procedure was to have been synchronized. I have not invented this synchronization business.

Then the representative of the USSR went on to say that his reading is that Pakistan should withdraw its forces first from the whole of Kishmir. Where does he get it from ? The same has been said by the Defence Minister of India. And I have said : All right, if still there is a mystery about it, if the plain meaning of the words still eludes the members of the Security Council, if the explanations given by the Commission are not clear, the let the Security Council appoint anybody of international standing and integrity to determine when the responsibility of Pakistan starts. If they say that it starts without the truce agreement, and that means to withdraw the whole of the army at once, I undertake, on behalf of my Government, to do so.

Now we say, and we contend, that words mean what words say. I am sorry to have to observe that, on the other side, the position is that words mean what the Government of India says. We say that words mean what the words say. They say the words mean what they say. And on that position one cannot agree on the meaning of any words at all. But this is not the first time it has happened.

I say, with all responsibility, that the partition of India took place as a result of an attitude of that kind on their side. The Cabinet Mission's plans had been accepted in the summer of 1946. Thereafter, the Prime Minister of India, Mr. Nehru, was elected President of the Congress. Soon after his election, he made a public statement putting an interpretation on certain paragraphs of the Cabinet Mission's plan which those paragraphs could not bear. As the authors subsquently also intimated, in their opinion that interpretation could not be vaild. There were all sorts of happenings in between, particularly the most regrettable happenings in Calcutta.

Thereafter, Lord Wavell, who was then Viceroy, reques-

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ted Mr. Gandhi and Mr. Nehru to met with him. In the course of that conversation—and I rely for this on *The Last Days of the British Raj* by Leonard Mosley,—page 42—he begged them to make a clear declaration that they accepted the Cabinet Mission plan, without any gloss upon it, or interpretation upon it. The conversation was somewhat prolonged. The book says the following :

"Wavell put the question frankly to Gandhi and Nehru : Will you give me the gruarantee the Muslim league is asking for ?"—that is to say that they accepted without any condition —"He was almost immediately plunged into the most difficult argument he had ever had with Gandhi, who chose this day to be at his most polemical and devious. Here was a saint who could in his ashram, dispense great wisdom and counsel tolerance, understanding and the necessity to give rather than take."—We all equally revere Mahatma Gandhi—"But on this evening he spoke purely and simply as a congress politician".

" 'Give me a simple guarantee that you accept the Cabinet Mission Plan,' asked Wavell.

" 'We have already said that we accept it,' replied Gandhi, 'but we are not prepared to guarantee that we accept it in the way that the Cabinet Mission set it out. We have our own interpretations of what they propose.'

"Said Wavell : 'Even if those interpretations differ from what the Cabinet Mission intended ?'

"Replied Gandhi : 'But of course. In any case, what the Cabinet Mission Plan really means is not what the Cabinet Mission thinks but what the interim Government thinks it means."

And then the Conference went on.

It is the same here : they say that this means something which the language is not capable of meaning, which the Com-

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mission has explained in a contrary sense and in the sense that they themselves originally accepted. After all, they went to all these meetings held to discuss the plan of withdrawal so that a truce agreement might be reached and might be published. For years they did this. They attended the first meeting at the invitation of the Commission in Delhi, where our representatives also went and put in their plan. The other side's plan was not put in.

Subsequently, they forced the Commission to change the interpretation of the part we had accepted. All right ! we did not insist on taking part in all that discussion which consisted of being told during the discussions what the other side's plan was so that we might give our agreement to it. We said we would be satisfied if the Commission would guarantee that there would be a synchronized withdrawal, and if they were satisfied we would withdraw too. Very well ; then they went on discussing it.

Now they say no, because all that paragraph comes first, all that must be complied with before the sub-sequent paragaphs must be complied with. The Commission has explained quite clearly that these two paragraphs will take care of the complaint that India has made and the other paragraph will take care of apprehensions that Pakistan entertains, but the whole thing must form part of a truce agreement. You have to put some paragraphs first and some later even if the whole thing is to be synchronized.

Again on that, all that we can suggest is, let there be a determination. There is a charge that we have not complied with what we had to do, or rather that we have not complied with their interpretation of these paragraphs. Let us assume that it may turn out that, if someone makes a determination, he may hold that their interpretation is correct. We will accept that, but if it is determined that is not the meaning of the paragraphs, that is not the meaning of the assurances and clarifications of the Commission, that it is not the meaning of the paragraphs viewed against the whole background, well then,

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why has all the delay taken place, why has use not been made of the time that has passed? It is because of the default on the other side. Let us make a determination. You cannot make a very grave charge against the other side and then refuse to have a determination made. You cannot say, "These words mean what we want them to mean, not what any body else thinks they mean, not what the resolution obviously said, not what the Commission said they mean". They say, "words mean what we say, because we want them to mean that." You cannot settle international disputes or any disputes on that basis.

Then with regard to the elections, and I had better finish quickly now. It was said, well, it has happened before and what can you say, but one very amusing thing—if I may be forgiven for using the expression—one very amusing argument which slipped from the representative of India was this. He read out extracts from certain papers and said that he thought those papers were not of any importance. They included the *Hindustan Times* and *The Statesmen* of Delhi. He said they were not very friendly to India. It was surprising to see how many papers were unfriendly towards India. And he has my sympathy on that. Then he said that one of the papers had stated that one of the opposition parties had alleged that when the voters went in they saw the ballot box was placed upside down and they could not put the ballots inside the box but had to leave them on the top. He says, how can that be? These boxes were devised by the Election Commission; how can it be said that the bottom was at the top and the top was at the bottom? It does not matter who devised the ballot boxes, it is the polling officer who sees how it is to be placed. Their complaint was that the polling officer or whoever was in charge had allowed the opposition boxes to be placed with the top down and the bottom up and, therefore, the ballots could not be put inside and later they were all put into the ruling party's ballot boxes. Whether that true or not I cannot say: what I am trying to say is that here are these allegations and the reply is that the boxes were devised by the Election Commission itself and that when they were asked to go and see what was happen-

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ing they refused to go.

With regard to Sheikh Abdullah's trial it was said that the matter is *sub judice*. This man, who has been a judge of the Supreme Court of India and has sub-sequently been a judge of the International Court of Justice, ought to know that one does not discuss a matter which is *sub judice*. In the first place, the matter at the moment, strictly, is not *sub judice*, it is *sub interim*. A commitment order was made on 25 January and the trial has not yet begum. No trial is taking place at the moment.

Secondly, I did not discuss the merits of the evidence upon which the judge has to make up his mind ; I commented only on the time it has taken, three-and-a-half years, to commit the accused for trial and on the three months that have elapsed since the committal and the trial has not yet begun. But anyhow, part of the charge is that Sheikh Abdullah conspired with a foreign Government for the forcible annexation of Kashmir to Pakistan. One of Lord Birdwood's books was referred to by the Defence Minister of India yesterday and here is a comment on that also. On pages 162 and 163 of Lord Birdwood's account of the removal of Sheikh Abullah in *To Nations and Kashmir* but I will not go into that—we read the following :

> "After the arrest [of Sheikh Abdullah] the Pakistan Press told of Muslims being, 'mown down' by Indian troops. The Indian Press retaliated with fantastic stories of an international plot. When I first heard of the rumours that Abdullah had been in league with a foreign imperialist Power, my reaction was that he had been caught out in negotiation with the Soviet."—

the representative of the Soviet Union will forgive me, I am not saying this—

> "I rubbed my eyes when I read that the villain was Mr. Adlai Stevenson, alleged to be plotting on behalf of the United States of America !"

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Equally, I ask Governor Stevenson to forgive me: I am not saying this. This is the sort of allegation on which the trial is taking place.

Then there was a long account which I do not question of the improvements that have taken place in Kashmir, the rising standard of living, the rising investments. Some figures were quoted yesterday and, as I said, I accept them. It is said that there are civil liberties on the one side and none on the other; none in "Azad" Kashmir. It is said there is a rising standard of living on one side, depression, misery, poverty and destitution on the other. In other words, on the one side there is Paradise, on the other side the reverse of it. Well then, if from the other side people see the miserabe conditions of the people in "Azad" Kashmir, and the people of "Azad" Kashmir look across into the valley and see the flourishing conditions, prosperity, civil liberties and so no that side, then why not hold a plebiscite? Let it take place in "Azad" Kashmir also if they want to go into this paradise on the other side, the whole dispute will come to an end.

Whether we are bound to it or not, whether on legalistic principles one thing or another this is right, it will put an end to the dispute between two neighbours and we shall be able to work together on a much more co-operative basis.

I shall not take up much more of the Security Council's time, and I am sorry I have taken about ten minutes more than I estimated. I have only one final word, and that is this yesterday some suggestion was made that I have claimed that Kashmir should come to Pakistan because the population was Muslim. I have replied to that. It was said that there are 60 million Muslims living in India who are very loyal subjects. We want them to be loyal. Every citizen of every State must be loyal. There are also ten or twelve million non-Muslim, Hindus, living in Pakistan, and they are loyal subjects also. There are perhaps exceptions on both sides; there was for instance the story about somebody wishing to assassinate Prime Minister Nehru. On both sides we hold these loyal

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citizens in great respect and we consider their help very necessary for the integrity of the subcontinent and for its progress and welfare. I repudiate here and now on behalf of the Government any knowledge of anything of that sort. We are not people of that kind. I do not mean to say that they are. What I mean is that this kind of charge has no basis at all. Everybody konws that with very minor exceptions, apart from that first wave to which I do not want to have to refer too often, I do not want to have to undergo the kind of emotion through which we have all passed in seeing the suffering of those near and dear to us, but after that first wave was over and with very slight if any eruptions here and there which were immediately put down, on the Pakistan side the minorities have had a clear run and a clear slate.

In spite of the best efforts of the Government of India, on the Indian side, that condition has not yet been reached. There have recently been all sorts of occurrences. How to judge these things ? There is an account of what had been happening at Malda in India in *The New York Times* today. Mr. Trumbull, who whas quoted with regard to some matter yesterday by my friend across the table, reports from East Pakistan having seen these refugee camps of 1,000 people who came from Malda after all the horrors that have been practised, with 2,000 more that were expected, describing all the perils against them, and the condition in which they arrive. Against that, the Prime Minister's account in the Parliament is that three people have been killed. This statement says 1,000 Muslims were killed.

The Prime Minister said that five or six died ; and the note that has been issued by the Indian Mission here says that it is absolutely untrue and fantastic that a large number of people have gone over to East Pakistan as refugees. But Mr. Trimbull who is there reports that he has seen these 2,000 refugees and 2,000 more are expected to come in. The Indian statement said that only three persons were killed—the Prime Minister said five or six but that makes no difference—in

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religious distanances in the Malda district of West Bengal late last month, and there had not been any mass flight of refugees.

Now 4,000 people do not leave their homes just because nothing has happened or because two people or three people or five or six have been killed. But the charge continues. Here is a theocratic State; we are a secular State Everybody is happy with us ; everybody is miserable with them. Well, if that is so, then, as I have repeated—and this is my last observation—I would submit that the best solution of that question is to admit everybody in Kashmir into that happy State. Hold the plebiscite and the whole question will be settled.

187. *Text of the speech made by Mr. Krishna Menon (India) in the Security Council meeting No. 1011 held on 4 May 1962.*

I have no desire to prolong this debate unduly. My colleague from Pakistan said this morning that I had covered a wide field. I think the Council well knows that the limits of this field were not set by me; we were not asked to come here on this occasion. What is more, since I introduced my observations, the representative from Pakistan has covered large areas of what he alleges to be a fact. I believe I tried to finish in as short a time as possible, but anyway, he covered a wide field ; the initiative did not come from me.

Secondly, I want to say right away that it is not my intention, nor part of my Government's policy, to go into large numbers of matters which Sir Zafrulla Khan has memories about. This is not a place to write his memories or what V.P. Menon, an ex-Government official, after a time in the Government, had written, without authority of Government. I know the name of Menon carries some weight, but not every Menon's. Therefore, we start from the beginning.

The first thing is that Sir Muhammed tries to repudiate that there had been any threat before the Security Council. That all depends on what you mean by "threat". A threat

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may be in words ; it may be by display of force ; it may be by other action. But we have no doubt in our minds ; and in the view of the Government of India, as expressed by the Prime Minister in Parliament two days ago. we will not negotiate, we will not carry out conversations under threats of any kind. On the other hand, our policy is not likely to be changed because someone, unwisely, I think, tries to introduce the element of threat.

Be that as it may, what was said here I am not going to repreat. Sir Muhammad said that once ; it was raised again yesterday and therefore, I will not read the whole of this. But he did say this much even later :

> "I intend – and I trust I will be able to do it when I come toward the close of my submission to the Security Council —to stress one aspect which was stressed here by the late Mr. Warren Austin : that nobody should deceive himself that, merely by covering over the question, it will be settled. If the Security Council does not want the elements in the State who started the liberation battle to start it again if the Security Council does does not desire that the tribes men should get out of hand and pour into Kashmir again, if the Security Council does not desire that the people of Pakistan should get out of hand and—if I may mix the metaphor—take the bit between their teeth and run away with the whole system of ordered Government, and if the Security Council does not desire that powerful neighbouring States should plunge into the vortex when it starts again, the Security Council had better take note of the realities of the situation." [1007th metting para.63.]

I submit, both in substance and language, it is nothing short of a threat : but even that is not the main thing, because I think we can afford to live with them. We have lived with these threats, and what is more, with the violations of international law and neighbourly behaviour from this country for the past fourteen years. We will still exercise restraint in regard to these matters.

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There are two other things to be considered : one, the responsibility of the State in regard to the use of its territory by what are called "tribesmen", in the same pattern as in 1947. "We know nothing about them : we cannot stop them : they are co-religionists, and this, that and the other." This is exactly the same pattern being followed, and it is not to be wondered at that we begin to think about what is happening. But over and above that, I believe there are some international obligations on States which are Members of the United Nations and, therefore, have full statehood.

It is an extraordinary statement that the people of "Azad' Kashmir and the people of Pakistan who are citizens of Pakistan may get out of control and Governments become powerless. This is a statement we cannot easily accept. That is to say, on the one hand, if a citizen of a State is badly treated by another, then the State rightfully comes to his rescue. On the other hand, if a citizen runs amok, then he has no responsibility. This cannot be, coming from Sir Muhammed, an ex-judge of the World Court. This is a very strange interpretation of the behaviour of nations. He is probably proceeding on the mistaken theory that no legal responsibility, in regard to what its citizens do. But external responsibility of a State—the external responsibility in these matters must attach to every State. Even when volunteers leave a country to participate in an internal war somewhere, States are supposed to bear the responsibility.

In this connexion, Oppenheim says about this that a State's responsibility concerning international duties is a legal responsibility ; a State must according to international law, bear various responsibility for the injuries and acts of private individuals. My colleague must have familiar with this in the famous decision handed down by the World Court to the effect that it is the obligation of every State not to allow, knowingly its territory to be used for acts contrary to the rights of other States. If Pakistan again either connives at or even permits—if Pakistan cannot control its citizens, it has little right to be a State and Government under the laws of civilized nations.

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But what worries us is that we find the same pattern as before. You heard the statement by my colleague that I was not Foreign Minister at that time. With this there is no argument : the Foreign Minister of the country is expected to accept the responsibility of his Government to continue its institutions. But I will leave all that alone. I am glad to think that this gloss denotes a reconsideration of the wisdom or lack of wisdom of making a statement of this kind in this Council. Let us hope that this process will continue.

But when you look at what has been said by responsible people in Pakistan in the last two years—I do not go very far back because there was a change of regime – but according to what has been said, he was not the Foreign Minister and therefore not responsible. It was said by the present President of Pakistan on 29 December 1958 : "Amid resounding cheers—"

Mr. ZAFRULLA KHAN (Pakistan) : On a point of order. Mr. President...

Mr. Krishna MENON (India) : I did not interrupt the honourable gentlemen, Sir.

The PRESIDENT : The representative of Pakistan has the floor on a point of order.

Mr. ZAFRULLA KHAN (Pakistan) : My point of order is this. I have not said—and I challenge the Defence Minister of India to say that I have—that I am not responsible. I merely said that I have no personal knowledge of certain incidents, and the Defence Minister of India said. "Foreign Minister, and not knowing what was happening ?" I then said I was not Foreign Minister at that time ; I was abroad.

I have not said that I am not responsible. I am responsible for everything that happened. I represent the Government even whether I was Foreign Minister or not.

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Mr. Krishna MENON (India) : I have said what I have said.

The PRESIDENT : The representative of India now has floor. I know that in the course of his statement there will be points to which others may wish to object. I request all members here to refrain from interruption. If they should take exception, I will be glad to give them the floor after the pepresentative of India has finished. Please continue.

Mr. Krishna MENON (India) : This is not a question to be disposed of by simply arguing about whether one person was Prime Minister or not. What was said was that these atrocious things that were recited that day would shock the Council or anybody elect. They were done, in our opinion, as a matter of fact, by those who had been promoted by Pakistan, by forces officered by Pakistan officials, and things of that character and therefore the Pakistan Government had knowledge of them. I gave in 1957—and do not propose to repeat it now - and I gave yesterday evidence from responsible people who had suffered in those circumstances, statements which side that the Pakistan Government had knowledge of this matter. And if they had knowledge of this matter—and on the face of it they had knowledge of it—then if the Foreign Minister says he was not the Foreign Minister, that does not hold much water. That is all I have to say. Anyway that does not come into this.

Now to continue General Ayub Khan's statement of December 1958, at the Chittagaon public meeting :

> "Amid resounding cheers the President declared that Pakistan will consider no sacrifice too great to ensure the liberation of the people of Kashmir. The question of Kashmir is a question of life and death for us and we are prepared to stake every thing for freeing Kashmir."
>
> Previously, in an interview given foreign correspondents he had said ;

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> "We must have a satisfactory solution. It affects our security and our whole existence."—That is a point I will come to later on when we speak about the rights of the peoples of Kashmir. "Should we be forced to adopt extereme measures the responsibility will be that of Bharat"—that is, of India. "Asked if he meant war, General Ayub said : Yes, certainly'."

President of "Azad" Kashmir, speaking at Muzaffarabad also said :

> "The liberation of Kashmir was the question of life and death both for Pakistan and the people of Kashmir and they were determined to achieve their objective at all costs."

Lieutenant-General K.M. Shaikh, who is now the Minister of the Interior, speaking on 19 January 1959, declared : "We will jointly work for the liberation of Kashmir. That is why I still wear my uniform." He was talking to the so-called "Azad" Kashmiris. The paper [*Pakistan Times*] also reported that : "...the tribesman had offered all help to the Government in settling the dispute and they were even ready to start a 'jehad' against India on this question". A "jehad" is a holy war, and here we have listened to the representative of Pakistan telling us that religious questions do not come into this.

Said the President of Pakistan again that ".....Kashmir was as much a question of life and death for Pakistan as for the people of Kashmir, Kashmir was vital for Pakistan not only politically but militarily as well". Therefore the issue for Pakistan is not the right of the people freely to express themselves, but their argument that Kashmir is necessary for their security.

Mr. Akhtar Hussain the Governor of West Pakistan was quoted as follows :

> "The Government was fully alive to the growing concern

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the tribesmen over Kashmir and the Canal Water deadlock and would spare no possible means to get these life-and-death problems resolved. If need be, he added, offers, of sacrifices extended time and again by the brave tribesmen in this behalf would be fully utilized".

That was at the time when they were obsessed by the idea of mediation, under a mediator who was a United States citizen the chairman of a bank. A geat deal of effort was made to resolve this Canal Water question, which at great sacrifice to ourselves has now reached the state—whether it is settled or not know—where it is no longer a live controversy, at least at the moment. But in defence of such statements made by responsible ministers of the Government—I do not mean responsible ministers of the Government—I do not mean responsible in a parliamentary sense, but ministers of the Government—how can we say that these people are not egging the tribesmen on ?

Major Mohammad Yusuf, the Resident and Commissioner of the Frontier Regions, replying to an address of welcome at a huge representative "Jirga" of Mohmand tribes at Shabqadar—and he is the main man responsible—said he was confident that when and if an emergency arose, they would come to the help of their Kashmir brethren. A "Jirga" is a collection of people, of tribes, If it is said that tribesmen are not necessarily conditioned by the resolutions of the Security Council, how can a responsible official say things like this ?

"The Kashmir dispute was a powder-keg, and unless it was peacefully resolved it could lead to a conflagration", declared the President of Pakistan on 8 June 1959 at Muzaffarabad.

Mr. Khurshid, the present President of the "Azad" Government, so-called, said in the course of his speech that :

"...it was the good fortune of the Kashmiris that a 'mard-e-Mujahid' like General Mohammad Ayup Khan was at the helm of affairs in Pakistan, and that he had promised that he would not rest until the entire State of Jammu

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and Kashmir was liberated."—Mr, Khurshid added that he had full faith in that promise, as he knew that a "mard-e-Mujahid" means what he says.

"The bearded Ahmadzai Chief called upon the big Powers not to tax our patience but to press for an early solution of the problem instead'. Otherwise we will have to resort to a 'jehad' to free the Kashmiris from the tyrannical yoke".—this is of the Government of India. This refers to Malik Jalat Khan, Chif of Ahmadzai tribe.

President Ayub Khan, speaking in October 1960—not so long ago – said that the Pakistan Army, the defender of the motherland, "could never afford to leave the Kashmir issue unsolved for an indefinite time. And it said that we are seeking military solutions ! The President also said around that same time :

"I assure you that the feelings of the people of Pakistan on Kashmir are not less agitated than yours are."—he was speaking to the people in "Azad" Kashmir.—"The people as well as the Government of Pakistan, and particularly the Army of Pakistan, have all along remained perturbed and restive at your worries and the miseries of those who live on the other side of the cease-fire line."

The Council will remember. I set out the circumstances of those "miseries" yesterday, when I spoke about the progress made in Kashmir.

Again, the President of Pakistan, on 27 October 1960 said that the Kashmir problem was "time-bomb never very far removed from the flash-point". He said : "Unless the intention is to make it explode through lack of foresight and statemanship, the answer is to defuse it as quickly as possible, and that cannot be done without touching it." In other words, it is a threat of war.

President Ayub Khan. on 25 May 1961 was quoted as having declared that :

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"...Pakistan would have to pursue every means available for the solution of the Kashmir problem. The President told a questioner that it was wrong to think that Pakistan was depending on the United Nations alone for the solution of the Kashmir problem."—Then I do not know why they came here.—"He emphasize that the people of Pakistan could not forget Kashmir, because the present cease-fire line was a constant source of danger to Pakistan's rail, river and road system, and provided innumerable defence problems."

The President of the State says this and challenges the very kind of uneasy truce on which we rest. The cease-fire line was the result of the exertions of the Commission at that time and was agreed to by military representatives on both sides who met in Karachi afterwards. Now they say that the cease-fire line is a constant source of danger to Pakistan's rail river and road system. I do not know how it is but would not like to go into the question of how many railroads there are.

President Mohammed Ayub Khan stated :

"The people of Pakistan would not hesitate to sacrifice even their lives for the cause of Kashmir as the safety and territorial integrity of Pakistan, especially the West wing would be always in danger unless the problem of Kashmir was solved..."

The President of "Azad" Kashmir said :

".. that the 'Azad' Kashmir regular forces were not a purely defensive force"—and these are the descendants of the local authorities that the Commission set up and that we were supposed to assist– "but they had been created with a specific objective"—by whom were they created, by Pakistan—"and therefore had a mission to fulfil ... He said : 'Let it be borne in the minds of all Kashmiris that there is no peaceful solution to the Kashmir issue and that they should from now on concentrate their potentials on finding a solution by other means."

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Mr. Khurshid again said : "Thirteen long years had been lost in debates and now only military action remained for the solution of the problem." That was on 4 February 1961.

The Lt. General Azam Khan—the Governor of East Pakistan—said in Dacca : ".. that the people of Pakistan would sacrifice their life, if need be, for getting their right of self-determination for their Kashmir brethren." At least in this case there is some talk about the Kashmir brethren.

Mr. Khurshid again declared on 4 April 1962—that is, after the Security Council had first met—"that the armed forces of the 'Azad' Government will be equipped with modern arms to liberate the occupied territory at any time when they are forced by circumstances to do so." Addressing a public meeting of Kashmiris in the Town Hall, Mr. Khurshid also said that the people of "Azad" Kashmir and Kashmir is living in Pakistan would be given military training and arms and ammunition.

Here is a news dispatch from *Dawn*, Karachi. It says :

> "President Mohammad Ayub Khan said here today that in an emergency, Pakistan would use all the weapons in her armoury"—and this is where her military allies come in—"to safeguard her independence. In such a situation, he said, there would be very little time to consult anybody,"—meaning his allies—"and we would not care if anybody is annoyed by our action"—I make a present of this to the United States—"The President was asked by a questioner at a question and answer meeting of Mardan Basic Democrats whether, in view of the Indian troops concentration on the Pakistan border and the possible threat of aggression, Pakistan would be able to use the weapons received under the United States militarʎ aid....The President said he did not think Pakistan's SEATO and CENTO allice would not come in her aid if she became a victim of aggression, but even if they did not, Pakistan would fight the enemy with all its strength and every weapon in its armouy. He was contident

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Pakistan was strong enought to deal with any aggressor firmly.

On various occassions Sir Muhammad here and elsewhere, and other Pakistan representatives, have spoken about the concentration of the Indian Army on the Pakistan border. In our system of government, ministers do not command armies nor do they engage in their development. But they have certain responsibilities in regard to the matter. At least they know where they are and how they are deployed. I want to tell this Council, with all such responsibility as I hold that even in the recent action of the Indian Army against Goa, troops had to be withdrawn from the area near Pakistan. There was not any armoury, no additional troops nor anybody within forty miles of the Pakistan border because we knew that it would be cited as an act of provocation. We have every reason to be suspicious, having had experience two years before on the Assam frontier about all these things. But in spite of that, no concentration of any kind was made. Still, we are perfectly entitled to do so because that is our sovereign territory.

It is quite true that on the border between India and Pakistan there are troops, but the entire concentration of the Pakistan Army is within ten to thirty to forty miles of our frontier. Where is Abbotabad ? How long does it take for troops to go from Abbotabad to Kashmir ? But the concentration of the Pakistan Army is in Western Pakistan, within a stone's throw from our frontiers, whether it be in Kashmir or anywhere else. So this is a purely irrelevant argument. What is more, now that this has been said, I do not want to throw all of our domestic internal matters into the Security Council, but I am left with no other choice.

Recently, there was a general election in India. There was internal tension in the State of Punjab on account of the differences between the different political parties. One of them was probably prone to violence and things of that character. It would be the duty of the Government to be on guard against internal difficulties, and some police forces which were normally

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on the border were withdrawn for the election. We took the risk because it is far more important that there should be no difficulties inside the country. The police forces that were normally on the border—and they are relatively small army personnel on the frontiers of India, mainly guarded by the police - were withdrawn.

The Pakistan Government took this opportunity for organizing what is called a boar hunt, that is to say a hunt presumably, ostensibly for wild animals, except that on this particular occasion the Pakistan Army and police were asked to take part. These are all methods of countries that adopt the practice of undeclared war. We communicated to the Pakistan Government that it was creating difficulties for us because we had withdrawn police in that area and that it was not right that they should concentrate policemen and soldiers in that area and difficulties. They did not listen to us. So if there is any question of concentration it is from the other side—there have been skirmishes between the Pakistan armed elements and ourselves in the last ten years and on various occasions when there was a great deal of provocation and when attempts to probe the Indian frontier were made, it sometimes was necessary to take action and we had to take action.

I want to tell you here that we will continue to do so. We have no intention of allowing you to put your foot on our soil.

I therefore wish to reiterate the conviction of my Government that the Pakistan representative has come here both against the Security Council and the Government of India. I want to assure you, Mr. President, on behalf of my Government that our action is not likely to be dictated by this kind of provocation because provocation is one of the means whereby we may be put in the wrong, where we may take an unwise action. Therefore, we have no intention of paying greater attention to it than it deserves.

Then we come to the newer facts that have to be dealt

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with. You will find that soon after this had been disposed of, both the speaker from the Soviet Union, who can take care of himself, and my humble self, have been taken to task merely for repeating what the representative of Pakistan said, and he said something that is entirely not factual.

The representative of Pakistan said :

> "In the context of their first urgent concern—that is, the Security Council's—that is to say, to bring about the cessation of hostilities—they took up the position : 'Why is the fighting going on ?' And they came to the conclusion—and it was perfectly obvious—that the fighting was going on as the people of Kashmir desired to come to a decision with regard to the accession, through the exercise of their own choice, and not the Maharajahs. Therefore, once they were assured that their desire, their wish, their objective would be fulfilled through completely peaceful means they would realize that it was not necessary to go on fighting for it. Consequently, that was affirmed and reaffirmed, not only by the members of the Security Council, but also by the representatives of India and the representatives of Pakistan." [1010th meeting, para. 53].

I submit that this is totally unrelated to fact. There have been questions of consulting the wishes of the people, if you like. There have been references to a plebiscite, to withdrawals, to demilitarization and to all kinds of things, but there has never been any question of the cease fire having to be established in relation to this particular factor. The whole idea of the cease fire at time was that unnecessary bloodshed was going on. And, as has been rightly pointed out by Sir Muhammad, the cease fire was not agreed to by us at a time when our armies were in retreat. In the winter of that year the armies of India were fighting at the Zojila Pass, where Indian tanks were in a actionat a height of 12,000 feet and the Pakistan Army was in flight. We could have pressed those advantages home. It was at that time that Pakistan rushed to Paris to the third session of the United Nations General Assembly, and it was not a defeated army that

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was trying to sue for peace or to save its skin by a cease fire. Whatever the representative of Pakistan may think or whatever may be thought by responsible members of the Council—as all of you are—that shows that our intention was not to seek a military solution but to obtain a vacation of aggression through the good offices of the Security Council, on the one hand, and, on the other, through the realization by the Pakistan Government that this was an unneighbourly relationship. That was our position from the very beginning.

I may say here and now that it has always been the position of the Government of India that Pakistan has committed aggression against us. What all these arguments about the plebiscite and about the determination of the people's will – has to do with Pakistan we cannot understand. Time after time the United Nations Commission has said that Pakistan has nothing to do with this matter at all. Pakistan was not to take part in the plebiscite. Pakistan comes here as an aggressor. Pakistan comes here because we brought a complaint of aggression. Otherwise Pakishtan would not be here at all. We made a complaint with regard to aggression in Kashmir, and the President, who is an old hand at this, will remember that the answer of Pakistan contained a number of points—so far as my memory serves me. Out of these only one referred to Kashmir. All the others referred to various other matters.

That reminds me of the tale in Aesop's fables about the tailor who lost a neelde in his dark house and, because he could not find it there, went out into the lighted street to look for it.

There was no answer to the question of aggression, and there was no answer in the Pakistan reply with regard to Kashmir. It was all about Hyderabad and Junagadh, what V.P. Menon had said, and this, that and the other.

In the letter of 20 August 1948 the Prime Minister of India worte to the Commission :

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"Finally, you agreed that part III, as formulated, does not in any way recognize the right of Pakistan to have part in a plebiscite."

And the Chairman of the Commission answered :

"The Commission requests me to convey to Your Excellency its view that the inter pretation of the resolution as expressed in paragraph 4 of your letter coincides with its own interpretation."

May I explain here that a great deal has been said about the presence of the "Azad" Government and the "Azad" army. These are all developments that took place long after. There had been the prior passage of the resolutions and commitments by both sides, and yesterday I read to the Council a passage in which it was said that the "Azad" Government was not to be recognized and that it would not change the situation at all. At one stage we demanded the disbanding and disarming of the "Azad" forces, and there was some doubt in the mind of the Commission whether it would be possible to disband them because they were part of the populations in that area. Leaving aside the question that the "Azad" army was composed of the population of the area, we insisted on the disarming and the disbanding of this army.

Then Mr. Lozano, on behalf of the Commission, agreed with us—if the Council so desires I will read the text, but it is unnecessary ; I do not think it can be contradicted since it is all printed in the proceedings of the Council—that disarming meant disbanding. He said that disarming must include disbanding, or words to that effect. Disarming implied disbanding, and therefore the whole of this rebel army that had been build up by Pakistan had to disappear. Thus, Pakistan has no *locus standi* in this matter at all. It comes here as an aggressor, and what an aggressor has to do is to mend its ways and vacate aggression. That is our position. Now I want to say this quite firmly because, due to shortness of time, one tends to be rather abrupt.

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The second point concerns accession. I think that this question of accession has been argued and can still be argued until the cows come home, as it is said. But, to summarize our position, we regard the accession of the State of Jammu and Kashmir to the Union of India as full, complete and final, irrevocable and, what is more, perpetual. There is no way under our Constitution whereby any part of the territory of India under the suzerainty of the Maharajah of Jammu and Kashmir before accession can be made over to anybody else legally. That is to say there is no unwinding of an accession, and all these passages read out about what the Prime Minister said at a particular time or about what someone else said at some other time will not cut any ice. The position is that this accession is full an complete.

Apart from all legal questions, the Government of India is entitled to hold the position that for the maintenance of its integrity and its security it cannot adopt the process whereby States can opt in and opt out at will, and no State at this table with a system of parliamentary or congressional government would accept that. Yesterday I quoted French, United States, British, Austrian and other instances and cases of international law in support of this. The United States, as I said, was engaged in the most sanguinary war in history in order to maintain the sanctity of the union.

Then we come to the "Azad" force again. What did the Commission say ? We have been told that this force is part of the area. The Commission said in its third report :

> "There is, indeed, no doubt that the 'Azad' forces now have a strength which changes the military situation..."

The cease fire was agreed to in the context of things as they were, and the whole idea of a cease fire is that there shall be a general stoppage—a tourniquet put on hostilities. That is, there must be a standstill, but the Commission says in its report :

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"There is, indeed, no doubt that the 'Azad' forces now have a strength which changes the military situation and to that extent makes the withdrawal of forces, particularly those of India, a far more difficult matter to arrange within a structure which considers only the regular forces of two armies. Although it might be a matter of discussion whether the numerical strength of the 'Azad' Kashmir forces has actually increased since August 1948, there is no question that those forces, who have since then been working in close co-operation with the Pakistan regular Army and who have been trained and officered by that Army, have increased their fighting strength. It is reasonable to suppose that, if the Commission had been able to foresee that the cease fire period would be prolonged throughout the greater part of 1949 and that Pakistan would use that period to consolidate its position in the 'Azad' territory, the Commission would have dealt with this question in part II of the resolution of 13 August."

There are two matters that come out of this. One is the change of circumstances that has taken place. First of all, all the arrangements of 1948 and 1949 where in the context of thinking that there was a cease fire and that in a few months—perhaps within a year - there would be a settlement of this matter. But in our submission the Pakistan Government, by not carrying out part I of the resolution which I read out to the Council yesterday, made the truce conditions imposible *prima facie*. Over and above that, however, section A of part II was repudiated in action, and the Commission's report itself sets out that that was the position.

Sir Muhammad stated yesterday, as far as I could understand what was being said, that with regard to the northern areas they had no complaints to make. The Commission has stated—and I have repeatedly quoted this before the Council—that to its knowledge Pakistan at the time of the passing of these resolutions and the agreement on the cease fire had no authority in those areas. It is quite true that the Government

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of India's had did not reach so far at that time, and the fighting situation ended soon after partition. The Commission said :

> "It seems however very doubtful whether the northern areas were in fact in the autumn of 1948 under the effective control of the Pakistan High Command, in the sense that the Commission understood the term 'effective control'...The Commission was informed that it was for the defence of the western area that the Pakistan regular forces had entered the State of Jammu and Kashmir".

That is to say, it was not for the purpose of abstract justice, of giving the people the government they want, or anything of that kind. They had entered the western area in order to defend the western area of Pakistan. It was purely a war action by a country in order to take another country that was a necessary for its defence.

What was the answer to that ? By January 1949, Pakistan undeniably held military control over the northern areas. I submit that that is a violation of the cease-fire agreement and changes the situation completely. And then they talk of plebiscite, after building up a huge army such as I have described, on the other side. They then wish to blame the whole matter on one side.

In a document of the Security Council proceedings, the question of Pakistan was considered. On 26 April 1949, nearly four months after the cease fire, Mr. Gurmani, Minister for Kashmir Affairs for the Government of Pakistan, disclosed the following in a letter to the United Nations Commission :

> "Efforts are being made to make the route Gilgit (—Bunji)—Skardu also jeepable within a short period."

They had no right to build these roads :

> "There exist : a good all-weather Dakota strip at Gilgit ;

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a good all-weather Dakota strip at Skardu ; a Dakota strip at Chilas."

This was all in the northern mountain areas where we had temporarily withdrawn even from advanced positions, in order to make a peaceful settlement. That these air strips were constructed under Pakistan occupation is clear from the following :

"In addition to necessities of life, other goods such as fine cloth, soap, cigarettes, etc., have begun to move in fair quantities since the construction of Dakota strips at Gilgit and Skardu, and the making of the Balakot-Gilgit road into a jeepable one."

I have no desire to read all these matters again. While it is true that it is very difficult for members of the Council to study these documents, they are all there and therefore, I am not going to go through the exercise of repeating these arguments again. Sir Muhammad, no doubt, if he had the time, would repeat them and would go on repeating them and I would then have to answer again. The facts are all there. So far as we are concerned, the accession is final. Pakistan has not only violated international law by aggression ; what is more, she has withheld relevant and material facts from the Council. In the first place, they said that they had no knowledge of the movements of the tribesmen, that they had not connived at them. Today the representative of Pakistan read from the letter of somebody of whom I have not heard before, as evidence of non-atrocities in Baramulla. In any event, members of the Commission are ready even today to go to Baramulla and to ask the people about the battle scars of that city, where practically every house had been burned down and, according to a newspaper report of that time, all but a few thousand of its inhabitants had fled the place ; and the crimes were of a very heinous nature It is useless to repeat all these matters.

Now we come to what I described as some of the new facts in the situation. Yesterday, partly because there was not

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much time, and since we know that perhaps some of these matters had better not be related, unless we are compelled to relate them, I withheld some of these observations on the continuing situation that now exists in that area. I spoke yesterday about 400 bomb explosions in the State of Jammu and Kashmir—and these are not children playing with fire-crackers. There has been loss of life and much communal trouble. They put a bomb in a Hindu temple and spread the story that Muslims are doing it. They put a bomb in a Mosque and say the Hindus are doing it. Pakistan's entire policy toward us has been based upon the idea of creating division and hatred among different classes of people. This has been the history not only of Pakistan, but of its creators, the Muslim League, for the last fifty or sixty years.

There has been aggression into our territory. In 1958, the Pakistan Government, in violation of the cease-fire agreement, organized a crossing of the cease-fire lines by civilians from the part of Kashmir under its unlawful occupation. There was no secrecy about it. There was a lot of propaganda to contact these so-called volunteers, who were comparatively well paid, to come over under the guise of civilians, to have a mass exodus into our territory, and conceal weapons in order to commit sabotage. At that time, the Chief Military Observer of the United Nations, at the instance of the Government of India, had to bring the matter to the Chief of the General Staff of the Pakistan Army. In his letter, No. CMO/92, dated 25 June 1958, the Chief Military Observer stated :

> "I have drawn the attention of GHQ Pakistan to the advisability of exercising stricter control over the activities of civilians close to the cease-fire line, particularly in relation to the use of explosives."

> It was a few days before the organized movement to cross the cease-fire line began that an attack along the cease-fire line had been planned. These crossings were the subject matter of two letters addressed by the Permanent Representative of India to the President of the Security

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Council, one dated 14 July 1958 and the other dated 15 August 1958.

Meanwhile, we thought things were going to improve because the Chief Military Observer informed us in India as follows :

> "I have had assurance from the Chief of Staff, Pakistan Army, that immediate steps will be taken to control the civilians in this area on the Pakistan side of the cease-fire line."

And I am free to admit that when we received this assurance, our army people were more or less inclined to take i at its face value because, being soldiers, I suppose they do that sort of thing.

Since then, the Government of Pakistan has given assurances of good conduct on behalf of the civilians in the area ; none of these assurances has been honoured. Since that time, Pakistan has used civilians as a screen to conceal its activities of aggression. Civilians have been encouraged not only to cross the cease-fire line on our army and police pickets and our villages, but also to occupy areas on our side of the cease-fire line and generally to promote instability in the region. A large number of encroachments have taken place—as many as twenty-nine. The report which I have is nearly a year old now. But there were as many as twenty-nine encroachments along the cease-fire line on the international border.

It can easily be understood that the boundary between the area of Jammu and Kashmir, which is administered by India and Pakistan, is partly covered by the cease-fire line and partly covered by the international border which runs through Jammu. In Jammu for the last twelve years, certain areas which had been in Indian territory have been occupied by Pakistan troops. But generally, with a desire I avoid large-scale conflict, we have not pushed them out. That is our territory on which aggression has been committed after the cease

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fire, after the resolution, and while all discussions were going on. I think that perhaps the patience and the general restraint which we have exercised in these matters is taken for granted. As I said yesterday, it is mistaken for subservience. These are acts of aggression, in complete violation of the cease-fire agreement. Pakistan objects to any encroachments being cleared, and we have tried to clear them either by talks or in other ways, on the ground that the activities of civilians are not covered by the cease-fire agreement. We cannot push the civilians out because there might then be a skirmish and trouble. We connot complain to the United Nations authority because they will claim that the people involved are civilians and not soldiers and that, therefore, the United Nations cannot deal with them. That is the position. It draws support for its view from some of the awards given by the Chief Military Observer. This is not the place for us to express our opinion about the Chief Military Observer and his staff. That will be done elsewhere.

No Government worth the reputation of being a Government can allow this sort of things to go on, least of all the Government of Jammu and Kashmir, which is responsible for the administration, including law and order. Taking a cue, I suppose, for the military observers, the built police posts opposite the military posts built on the other side by Pakistan. The State Government of Jummu and Kashmir, not the Government of India nor its Army, built police posts and, naturally, they manned them with the necessary strength to control that area.

Here is the report on this matter. In order to deal with this mounting lawlessness, disorder, subversion and sabotage, the Jammu and Kashmir Government was compelled to open two additional police posts, one of which was in Balakote, within the 500-yard zone, There was an agreement that within 500 yards, military people should not go. This was merely a restoration of a police station that had existed in this area before 1947. The second was at Tarakundi, 600 yards from the cease fire line.

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The local Superintendent of Police informed the United Nations Field Observer about this decision to set these posts, and the latter raised no objection. The Government of India informed him that these posts would be built for the maintenance of law and order, and the United Nations Observer raised to objection. But, when the police post was set up, a United Nations Field Observer was also present in the area. These posts are intended to enable the police to discharge normal functions. However, no sooner were they set up than they came under continuous and heavy machine-gun-fire and other fire from the Pakistan side. And, when we talk about a volation of the cease-fire line, I want to say that they are not just rifle shots or pistol shots or anything of that kind. Light machine guns, grenades and in other war equipment is utilized. And it is not as though they fire one round : when they fire, it goes on the whole time, and practice little battles take place in these areas. United Nations Observers have seen the Blakote post being fired upon when it was being established, and also on subsequent occasions. Not satisfied with this, Pakistan armed forces and Pakistan police organized predetermined raids against these two posts. Indian army authorities have lodged complaints.

If I read all this, it will take a very long time. At any rate, violations of this kind have been taking place.

The representative of Pakistan has raised an argument of international law, and I would hate to join issue with him—because, after all who am I to dispute what may be the very learned opinion of an ex-Judge of the World Court? But I would like to say that India is the successor State of the British Empire, of the British power in India. This is not something we invented. Certain orders were passed under the Government of India Act of 1935, as amended in 1947, which is called the Indian Independence (International arrangements) order, 1947. This was passed, I believe, somewhere around 6 or 7 August—anyway, before 15 August, before the partition—under the signature of the Governor-General. This is equally binding on both States, and it says under Articles 1 and 2 ;

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"The international rights and obligations to which India is entitled and subject immediately before the 15th day of August, 1947, will devolve in accordance with the provisions of this agreement.

"Membership of all international organizations together with the rights and obligations attaching to such membership, will devlove solely upon the Dominion of India.

"For the purposes of this paragraph any rights or obligations arising under the Final Act of the United Nations Monetary and Financial Conference....."

This is the only thing I am going to read. It is quite true that I was said : "Well, there are many matters to be settled. The territory which is neighbouring the Dominion of Pakistan—she will carry it out."

It will be noticed that, in the statement of the representative of Pakistan, he treats "successor Government" and "successsor authority" as synonymous. There is a difference between a "successor Goverment" and a "successor authority." Pakistan was entitled, where it was a successor authority, to deal with these matters. But I do not think we need be satisfied with the Government of India Act, even though it is binding of Pakistan.

This matter came up before the United Nations—and this is not a secret document. The Secretariat of the United Nations while dealing with Pakistan's claim, found itself in the position of having two make administrative decision with far-reaching legal implications, and it consulted the British Government. The British Government was of the opinion, quite correctly, that Pakistan had not succeeded to the treaties of British India and that, in strict law, if commenced this life unfettered by conventional obligations. The Secretariat thereupon delivered the following opinion :

"From the view point of international law, the situation is one in which a part of existing State breaks off and

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becomes a new State. On this analysis, there is no change in the international status of India ; it continues as a State with all treaty rights and obligations, and consequently, with all the rights and obligations of memberships in the United Nations. The territory which breaks off, Pakistan, will be a new State ; it will not have the treaty rights and obligations of the old State, and will not, of course, have membership in the United Nations."

So Pakistan was admitted as a new Member, which Britain and ourselves supported at that time. And it is too late in the day to argue the question of succession. India happened to be a succesSon State, and that is why I ventured on the question of paramountcy yesterday. I did not say that we inherited paramountcy from the British Crown, because paramountcy has been loosely used in relation to the King himself, I said that paramountcy had two aspects. One was a ceremonial or states aspect, where the friend and any of the King comes in. But there is a functional aspect. The position assumed by the King could not be carried out unless he had the instruments at his disposal—the money and the equipment and the people and the territory of British India. For this paramountcy to be effective, British India should be there. The King went away, and he could not use the force of the United Kingdom or of his other Dominions in order to carry out these obligations. And so, rightly or wrongly, he told them : "So far as the Crown is concerned, this comes to an end." But that does not put out the functional obligation.

That is all I said, And, what is more, while I did raise that point, it was not said that the question of the relation or the membership of Jammu and Kashmir, to the territory of the Union, was based upon paramountcy. That is based upon the accession, so far as law is concerned—and, so far as the fact is concerned—upon the history of the past and the the will of the people, whether it is exercised by plebiscite or not.

When we come to this question of plebiscite, I am free to confess—and we cannot deny it, for it is in the papers all over

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—the word "plebiscite" has been used many times. At one time it was thought that a plebiscite would be taken indeed. If it had been possible, if Pakistan had honoured its obligations, if it had not concealed facts from the Security Council, it had not indulged in provocations and egged on disturbances, and if the local authorities had remained as local authorities, if the Government of India had been able to garrison the northern area as it was allowed to do under the resolutions, if it had been able to ward off other troubles—in those circumstances, a plebiscite could have been taken. But time passed and conditions changed.

Then we are asked : What is the meaning of the Mountbatten Statement ? Mountbatten did make a statement. He did not make it out of his own head. He was speaking as the Head of the Government of India, and we take full responsibility, as the Government, for what the Governor-General said, because he was a constitutional Governor-General. He simply meant, as I said yesterday, that we were not satisfied—not in legal terms, but we were not satisfied in political and moral terms – merely to have the signature of the Maharajah, in the same way that they got a nabob running away with his dogs. That was not sufficient for our purposes. We wanted the moral authority of the people, and I said repeatedly yesterday that we followed the practice of the British Government, which consulted us as the great national movement of the country—not a parliament—not by a referendum, not by a plebiscite. India did not become independent by self-determination. I know of no British colony or no British dependency that became independent by self-determination. It was always by arrangement. So what Mountbatten's latter means was that we would take every step to ascertain that opinion. And we did that, immediately this was done, we ascertained the will of the National Conference. We got their consent. The Maharajah agreed that the head of the National Conference would be part of his Government. That is not what happened in Junagadh or anywhere else.

I have no intention of going into these extraneous problems,

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Kashmir is big enough for the Security Council—with the limitations on its time.

Secondly, who has stopped the ascertainment of public opinioa in Kashmir ? So far as the Indian-administered area of Kashmir is concerned, as I have said, there have been three elections. This was ridiculed by the representative of Pakistan two days ago, but I think wisdom prevailed and, today, he did not do so, because the facts were against him. There have been free elections lately organized under the Election Commission, open to the public in every way. We have a free Press and everything else. There have been three elections in the last twelve years. Therefore, the people whom we have any authority have been able to express their opinion. The people who have not expressed their opinion are the people in so-called "Azad" Kashmir, because they have no parliament, they have no newpapers, they are not allowed to vote in the constituencies for which the Kashmir Constitution provides. Over and above this, when we came here last time, in about 1957, the Constituent Assembly of Kashmir in session. Now, under our law, even if the Constituent Assembly were to decide differently, the accession would not be changed.

But in fact that Constituent Assembly—not by some sort of rubber-stamp decision, but by debate for a very long time, with arguments on both sides and a real interesting parliamentary debate for a long period—came to the conclusion, as regards the alternatives, that they may do this, that they may do that, that they may do the other thing. They set out the consequence of doing this, that or the other and they decided that the accession of India was necessary for Kashmir—and they were not speaking only for their part but for the whole of India.

Therefore, first there was the opinion of the national movement ; there was the fact that over a period of years there was contentment and progress in that land. There have been no protests about going away. All the going away business is Pakistan, not in Kashmir. It is not as though the Kashmir

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people want to go away, but it is an external authority, an invading country which wants to filch them away, and that is an entirely different situation.

Secondly, there were free elections, the maintenance of public institutions, free debate and free communication. Over and above that there is a Constituent Assembly. I speak about the Constituent Assembly with this limitation : that Constituent Assembly has no sovereign authority in regard to the Union, but as an expression of opinion, as expressing the attainment of opinion—that is correct. The only party which is preventing the right of the people to speak for themselves is Pakistan and its preachers in Kashmir; it is the Pakistan and its preachers in Kashmir; it is the Pakistan Army, with the augmentation of its forces both from its internal and external strength.

Therefore, India is not to be blamed ; the Government of India is not to be blamed and the Security Council is not to be blamed if there has been no plebiscite in this matter. There is this world "plebiscite" again. Even the Commission has said that if the plebiscite is not possible, not practicable, then we will try other means. I do not know whether the Council would want me to read the Commission's report which says that if the plebiscite is not practicable, if it is not possible, then we shall try other means. This has also been said by Sir Owen Dixon in his report.

So the idea is not as though it is the law of the Medes and the Persians that cannot be changed. We submit to the Council that in so far as we have a moral obligation, which we will respect, we will respect, we have taken every step to ascertain the will of the peoples. The will of the peoples in Kashmir is in affinity with the Union ; they are part of the Union ; they are citizens of India just like anybody else. The people who are being kept out are kept out by external force, they are held captive by an empire under a colonial system. That is our contention. Therefore, there is no answer to this question except the vacation of aggression by Pakistan.

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We also submit that the Government of India has at all times stated that Pakistan and ourselves cannot be treated on a plane of equality in this question. In this matter my caveat at the continuous use of the word "dispute" by Sir Muhammed Zafrulla Khan. In popular language anything is a dispute. If people differ in an argument, you can call it a dispute. But we are now speaking in the Security Council in the context of the Charter and its provisions. We have maintained from the very beginning that this is not a dispute but a situation. There is no dispute between us and Pakistan. How can there be a dispute between us and Pakistan in a matter in which Pakistan has no *locus standi* ? Pakistan, by its own unlawful action, has created a situation. That situation creates some difficulties for us. And as far as the Charter is concerned, I do not know if it is necessay for me to talk about it. Therefore, while I have no objection to using the word "dispute" in colloquial terms, in terms of the Charter we are not engaged in a dispute whether political, legal or anything else. A siuation has arisen through a fact of aggression that has taken place so far as our country is concerned.

Sir Muhammad Zafrulla Khan also pretended that we had quoted Sir Owen Dixon out of context. He is perfectly entitled to do so, because I pointed out instances to him where Sir Muhammad mentioned things out of context, only quoted things in part. Now what did Sir Owen Dixon say? He spoke on a number of occasions on the Kashmir dispute in the Security Council in the course of the period beginning with 1 January 1948. He said:

> "...India had advanced not only the contention to which I have already referred that Pakistan was an aggressor, but the further contention that this should be declared. The Prime Minister of India, at an early stage of the meeting made the same contention and he referred to it repeatedly during the conference. I took up the positions, first that the Security Council had not made such a declaration ; secondly that I had neither been commissioned to make nor had I made any judicial

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> investigation of the issue ; but thirdly that, without going into the causes or reasons why it happened, which presumably formed part of the history of the subcontinent,"—without going into that history– "I was prepared to adopt the view that when the frontier of the State of Jammu and Kashmir was crossed, on I believe 20 October 1947, by hostile elements, it was contrary to international law, and that when, in May 1948, as I believe, units of the regular Pakistan forces moved into the territory of the State, that too was inconsistent with international law."

I submit that the Security Council had not pronounced on it, that Sir Owen Dixon had not gone into the history of it, and yet he insists that there has been a violation of international law. This strengthens the argument about violation rather than weakens it. If he had been asked to go into it, it would have been another matter. But even though he had not been asked to go into it, it stuck out a mile, that is going into the territory where they had no business to go. After all, it was not a no man's land. Sir Owen Dixon goes on to say:

> "I therefore proposed that the first step in demilitarization should consist in the withdrawal of the Pakistan regular forces commencing on a named day. After a significant number of days from the named day, then other operations on each side of the cease-fire line should take place and as far as practicable, concurrently. What number of days should be fixed?...

That is to say, here again there is an argument that Pakistan forces only need withdraw, and so on, and then we withdraw, and so on. But the whole trend of the discussion has been that these are aggressors and they must go; and when they have gone we ought to do certain things in order to bring about peace.

Now a great deal has been said about interpretation, so-called, of part II of the resolution of 13 August 1948. Sir

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Muhammad Zafrulla Khan referred to interpretation in another context, something about the Cabinet Mission ; which is not relevant here. Anyway, I did not hear much of it. He spoke of his interpretation, the interpretation of Pakistan or whatever it was. It is my understanding that both in municipal law and international law, treaties, statutes, or whatever they may be, must be interpreted in their natural meaning. It is not necessary to refer to a tribunal when words have a certain meaning. That is the law inside civilized countries and between nations.

It is clear that parts I, II and III of the resolution of 13 August 1948 form an indivisible whole and implementation of one part is conditional upon the implementation of the other. Thus, for example, part II of the resolution can be implemented only after part I has been carried out and the implementation of part II, B, withdrawal of Indian forces, is conditional upon the carrying into effect of Part II, A, and finally part III—ascertaining of the free will of the people of the State of Jammu and Kashmir—is to be carried out only after part II has been carried out with discussion between the Commission - not with Pakistan, but between the Commission and the Government of India, as to what is the best way of proceeding. At no time did Pakistan come into the picture at all.

Moreover, various parts of the resolution stand or fall together. There cannot be one without the other. No other interpretation can be attributed to the above resolution if the various parts of it are read in their "natural and ordinary meaning". A fundamental principle of interpretation is that words of a treaty or an international agreement must be given their "natural and ordinary meaning". Thus, in a case relating to Competence of the General Assembly for the admission of a State to the United Nations wherein the International Court of Justice was asked to give an advisory opinion, the Court stated:

> "The Court considers it necessary to say that the first duty of a tribunal which is called upon to interpret and apply the provisions of a treaty, is to endeavour to give effect to them in their natural and ordinary meaning in the context

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in which they occur. If the relevant words in their natural and ordinary meaning make sense in their context, that is an end of the matter. If, on the other hand, the words in their natural and ordinary meaning are ambiguous or lead to an unreasonable result, then, and then only, must the Court, by resort to other methods of interpretation, seek to ascertain what the parties really did mean when they used these words. As the Permanent Court said in the case concerning the *Polish postal Service in Danzig* (P.C.I.J., Series B, No. II, p. 39): 'It is a cardinal principle of interpretation that words must be interpreted in the sense which they would normally have in their context, unless such interpretation would lead to something unreasonable or absurd.'

"When the Court can give effect to a provision of a treaty by giving to the words used in it their natural and ordinary meaning, it may not interpret the words by seeking to give them some other meaning."

In this case, there is no difficulty, and the thing is set out there—the Pakistan Army, its nationals, and the "Azad" forces must withdraw. They had no business to be there and have no business to have gone in there.

Both today and yesterday statements were made by the representative of Pakistan on behalf of his Government saying this, that and the other. One of these things is that they would withdraw their forces. I submit that during the last fourteen years we have not prohibited them from withdrawing their forces nor has the Security Council, and if the Government of Pakistan has not withdrawn them, and what is more in actual performance has acted in the reverse manner, what credence is to be attached to these statements? They are merely strings of words. If in the last fourteen years they have not withdrawn these troops but have improved them so that they are as good as the regular forces of the Pakistan Army, they are still on our frontier; they are equipped with air forces, weapons of modern character into the details of which I need not go—well, instead

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of withdrawing their forces they have been building them up. This argument has gone on during these fourteen years and all the time in the background before the Security Council not only have the relevant facts been with held but contrary versions have been given.

The late Mr. Mohammad Ali Jinnah said he had no control over the tribesmen, but the same Mohammad Ali Jinnah, as I pointed out yesterday, reviewed the tribesmen and egged them on. It was the same Mohammad Ali Jinnah who called Lord Mountbatten and said: "If you will do this I will call the whole thing off." How could he call the whole thing off if he had no influence over them? If was the same Mohammad Ali Jinnah who gave orders to the British Commander-in-Chief to wage war against India. Fortunately, the British Commander had either the sense or the discretion not to do so.

These are the facts, and now they come here and say, in a vacuum, before the Security Council, that they will do this and they will do that - nobody is preventing them from doing it. If Pakistan withdrew its entire forces and all the works that go with them and cleared out of the place where they have no business to be, then a new situation would arise. In this new situa tion any Member State of the United Nations would act according to the principles of the Charter against the background of the history of the case. But this is a conundrum. It is an argument, it is an offer, and we see nothing that is worthwhile in this matter. I submit that it is the very same representative who has told this Council time after time that neither aided nor abetted the tribesmen, but that the tribesmen would go in and they were not able to stop them. It is like some of those people who train dogs, and say in the presence of the dog, "If you are not careful the dog will bite you." It is practically as if they gave an order to bite people. In the same way, they say these tribesmen will get in. If the Pakistan Government is so incompetent that the writ of its law does not run in its own territory, who can make a promise on behalf of that Government?

The Government of India does not stand here in sackcloth and ashes. It has carried out a very heavy responsibility and in

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spite of our moral, legal and every other kind of obligation, in spite of the pressure of our public opinion, we shall not take the initiative in war-like action. But today, as I said, there are other circumstances. We read that a communique has been issued in Karachi or Rawalpindi—or whatever the capital of Pakistan is for functional reasons—and in it is stated that negotiations have been undertaken with a view to ensuring the tranquillity of the border and developing good neighbourly relations. That is to say, Pakistan has entered into an agreement, if the communique is true, with China in order to settle our borders. I have said they have no right to dispose of property that is not theirs, and I want to say here on behalf of the Government of India that we shall not be bound by any agreement they may reach, temporarily, permanently, or in any other way. We shall not be bound by it or any agreement in which conditions are created inimical to the security of India. I want to submit that it is a violation of international law and a disregard of the resolutions of the Security Council to trade in sovereignty of our territory which has been agreed to at all times not only by the Security Council itself but by the representative of the United States, Mr. Warren Austin, whose statement I read out the other day.

The sovereignty of the territory of Jammu and Kashmir lies with the Union of India. Jammu and Kashmir is now part of the Union and, therefore, it is not in the gift of Pakistan, She is not entitled to negotiate with China or any body else nor enter into international negotiations; and in trying to play off both sides against the middle she is violating international law. Not only is she violating international law, she is acting in a way which is in total disregard of the decisions of the Security Council with far-reaching consequences.

Furthermore, I want to say on behalf of my Government that the Pakistan Government has no authority whatsoever to constitute any kind of polity in the area that is under her occupation. The Commission had very definitely laid it down that there shall be no consolidation. But consolidation has already taken place in regard to the areas under occupation. Annexa-

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tions have taken place and now "de-annexations" will have to take place before there is peace. There has been a great deal of talk of "Azad" Kashmir as a kind of independent State. They have set up information offices in various places and this, that and the other; Pakistan has never recognized them but anybody who is opportunist enough to do so may recognize them. However, the creation of any polity in the territory of Jammu and Kashmir would be a violation of international law and a disregard of the decisions of the Security Council, and we shall not recognize them—and certain consequences follow from this.

Therefore, what I said yesterday is conditioned by these new circumstances. The Government of India and the people of India cannot be put into the position of having new States created in their own territory nor can they concur in any agreements or alignments. The Government and people of India will not sit quiet and do nothing about it if we are forced to take action by changes made in our relations in eastern Asia or on our frontiers.

Here, therefore, are very serious matters. It is not merely a question of scoring a debating point. I want it to go on record that no agreement, no negotiation, no understanding however temporary—because all things are temporary, since they take place in the context of time—will bind the Government of Indial. We shall not submit to the implications of any undertaking we may have given to our people to the Security Council, or to the world; all that is conditioned by these changed circumstances. The security of our country is something which we cannot barter away. Changes that take place on our borders not outside our borders, but within our borders—are a matter of concern to us.

These conditions exist ; these are the new circumstances which have arisen and it is the wish of my Governmemt that we should submit to the Security Council, and place on record, that no changes that may take place in this way, either in the form of the demarcation of boundaries submitting certain areas to foreign jurisdiction or the demarcation of boundaries without

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consultation with us, will be binding upon us. No attempt to set up a government in "Azad" Kashmir and say that it is a government, in "Azad" Kashmir or any other country, will be binding upon us either because under our Constitution it is only permission to demarcate boundaries inside the Union. Therefore, the so—called territory of "Azad" Kashmir, and other areas alleged to have acceded to Pakistan in the Himalayan region, we say, continue to be integral parts of the territory of the Union. This is one of those things on which the Government of India will not yield.

To conclude my observations, we are at all times prepared to find ways and means for reducing tension. We recognize that in this world it is not always possible to obtain logical solutions. We also recognize that aggression somewhere may well become aggression all over the place. We also recognize that conflicts are likely to spread. For all these reasons I repeat the undertaking on behalf of the Government of India—an undertaking which I am sorry to say Sir Muhammad thought he should ridicule, when it is his Government which for twelve continuous years has refused to enter into a no-war agreement with the Government of India—we say: whatever our differences, we will try and settle them or leave them unsettled but we shall not go to war. That proposal of ours has been turned down time after from 1947 onwards. What they say is yes, we will enter into a no-war agreement with you when you have done what we want you to do. What is the point of agreement? It is not we who are on the war path; we have enough constructive work to do in our own country. We are not exciting feelings in this way; we are not shaking the world in general by creating more tensions throughout east Asia.

One more point: It has been said —and I think the Council should not be misled in this matter - that Pakistan is an Islamic State—a theocratic State. We do not quarrel with that; it is not our business at all what kind of State they have. What is called a two-nation theory has been propounded even though it may apply to what was formerly in a sense partitioned, some phrases have been said, somewhere, that populations of one predomi-

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nant type will be grouped that way, and others will be grouped this way. But the Prime Minister at the time, in his statements, and in the acts of Parliament, made it quite clear that this does not apply to the Indian States; and Sir Muhammad charges me with having suggested that he had said something about communal compositions and the claim of Pakistan—I do not know what that is—the claim of Pakistan, the claim of conquest, the claim of aggression, the claim of force, the claim of illegal occupation. But in answer to that, he says it is not the claim of religion, as such.

First of all, I want to point out to him that he misquoted Lord Mountbatten in support of his argument, and said that accessions were to take place having regard to one—two—three —religious—or whatever it is - communal affiliations something of that kind, quoting the name of V.P. Menon who is no longer an employee of the Government of India, who used Government records without permission and without authority.

We neither accepted nor repudiated it. Lots of people write books: it is one of the occupations of retired people. We are not bound, therefore, by what these people said; but I would like to read out to you the position of the Pakistan Government with respect to the internal changes taking place.

There is a well-known axiom international behaviour that States do not die: Governments may change. Therefore, the present Government of Pakistan repudiates it, and, by its conduct, indicates its repudiation. It is bound by the policies that have been expressed by its predecessors, both in public and, even more, in the Security Council. I would like to read out to you what happened on 18 February 1957. The then Foreign Minister of Pakistan spoke to this Council on this matter of plebiscite, because we said at that time that religious consideration should be kept out of it:

> "It would be perfectly legitimate in the case of a plebiscite to draw attention to religious, cultural, linguistic, economic, geographic, strategic and other ties, affinities and

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considerations that might sway the choice. So long as nothing has been done to incite lawlessness or to exercise coercion, the exercise of all considerations that might affect the choice would be legitimate.

"I think that Mr. Krishna Menon—and I bow before him for his knowledge of the English language—forgot to differentiate between the word 'election' and the word 'plebiscite'. Whereas in an election it is the duty of a Government to see that it is free and no religious arguments are brought in, in the matter of a plebiscite, wherever it is held, it is held because or religious differences or of ethnic differences or of geographic, linguistic or other differences. Therefore in a plebiscite it is quite legitimate for people to appeal to the electorate for these reasons before they decide whether to accede to one side or the other. In the matter of an election, it is quite different. I am very sorry that Mr. Krishna Menon is not here today. . ." [770th meeting, paras 31-32.]

And it is not only one passage. There are dozens of passages in the statements made by Pakistan leaders. In fact the whole idea is that. Then Sir Muhammad says that we are not averse to plebiscites, and that we indulged in this practice before. His facts are wrong. I have some knowledge of this because I handled this matter. There was no plebiscite in the former North-West Frontier Province. What was done was this. The North-West Frontier Province at that time had a kind of Parliament which had been given by the British, although it had no total responsibility. Since there was some dispute and although the general expectation was that the North-West Frontier Province would remain with the Union, we said, "If there is any doubt about it"—ultimately, after days of argument —"let there be a referendum". And there was a referendum in the North-West Frontier Province which, for various reasons, was boycotted by the majority. Out of the remaining minority Pakistan obtained the majority. Several thousand of them who boycotted it are now in goal. And their leader, a man known as "Frontier Gandhi" in popular terms, has been in Pakistan prisons for years and years. One of the pioneers of our national

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movement, who had suffered imprisonment under the British and had been in various demonstrations and agitations in the past, indeed, a great national leader, he languishes in prison.

Anyway, what took place? There was a referendum. It is quite true that in Sylhet there was a referendum. All countries make mistakes and that was one of the mistakes we made. But that again was not in fact a plebiscite. It was a referendum. The difference is small, but it was not a plebiscite. We abided by that referendum and it has not been felicitous for the stability of that part of India. But it is wrong to say that, therefore, we are familiar with plebiscites, and that the plebiscite is one of the things that we ordinarily use. It is wrong to say that as a reply to the argument which I quoted from the British Foreign Office documents to the effect that it was not a practice in parliamentary systems – not their practice. I also quoted Australian and other law against it, and to say in reply, "You are accustomed to the plebiscite" again is a misstatement of fact.

I conclude by saying that first the Government of India holds the accession of the State of Jammu and Kashmir as full, not temporary or provisional, as final and perpetual. There is no power in India to cut as under any part of this territory except by an act of cession to be sanctioned by the Constituent Assembly. If there was a political agreement it would be our responsibility to do that.

Secondly, we will not sit back if changes are made which are in violation of the provisions of the Charter, the decisions of the Security Council and things of that character. Equally, in spite of our legal, moral, political and every other right and interest we shall not take the initiative in war action—in the use of force—against Pakistan, because we know that over and above everything, and over and above the Government, there are people in Pakistan who are friendly to us.

Thirdly, we shall not at any time submit this matter to what is called mediation or arbitration, and we are not frightened by having it thrown in our face that this is a normal method

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of international settlement. There are many matters on which we will go to arbitration. We have gone to arbitration in regard to Pakistan itself on small matters, but we will not agree to arbitration or mediation on the question of the sovereignty of our territory. I said this in 1957 and I repeat it with the authority of my Government. The sovereignty of a country and its independence, like the honour of a man, are not the subject of arbitration, and I am quite certain that the other representatives of nations which sit here will appreciate this argument. Not one other country would be free if its sovereignty were to be subject to arbitration. Supposing two political parties of equal strength inside a country said. "Let us arbitrate. Let us go to somebody else and see who should govern this land". Where would they go?

This is the fourth submission I have to make. We have come here on the basis of allegations that there was a threat to peace and security in that part of the area. If there are threats those threats and the conditions are created by the people who complain, and we are not responsible for them. The remedy lies in the hands of those who have sought to come here.

No new factors have been adduced and a great deal of the time of the Council has been taken, and there are new members present and for that reason we have had to repeat many things we have said before. There have been 105 or 107 meeting of the Council on the subject, but irrespective of the number of meetings that we hold you cannot argue a nation into dependence. India is an independent country, with no desire to absorb or encroach upon other people's territory but equally bound in honour, bound by its own interests, by its obligations to its own people, to safeguard its integrity and protect its frontiers. In doing so it will not be provoked by threats of aggression, but at the same time we look to the Security Council not to allow itself to be used as a forum for tendentious propaganda.

We have not violated any agreement that has been reached in the Security Council. The continuous calling of meetings of this kind, when no new circumstances have arisen, does not

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lead anywhere. We have been asked why we do not talk together as two neighbours. My Prime Minister invited the President of Pakistan to come and talk. We cannot negotiate because we are not equal in this matter. We are equal in other ways, but in this matter, we are not equal. We are, however, quite prepared to talk this thing over, but Sir Muhammad comes here and says that direct negotiation does not work. That is to say, even before they come they rule it out. You know, there are many people of good-will, but the question is how they apply it. If they think that no bilateral negotiations can produce any result they are very much mistaken. We have no objection to talking to anybody, friend or foe opponent or ally, but we do not think that there is any room for the Security Council to order us or to instruct us or to make suggestions about a thing of this kind.

It has been said that India should give an undertaking that it will not violate the cease-fire line. That would be a very dishonourable thing, because we have not done anything of the kind; why should we keep on renewing a declaration when we have never violated a declaration?

My country stands here with no pangs of conscience of any kind. Our hands are clean in this matter. We came here on a charge of aggression and we expected you, the eleven members of the Security Council, to stand up and say the Charter should be defended. We have gone a long way, and we shall go a lot further; we shall not walk out of this Council at any time, even if the discussions do not lead anywhere. But if we have to sit here and listen to continual misrepresentations of our people, like the one given yesterday, for example, that a thousand people had been killed in West Bengal—wheather this has any relevance to this matter or not. I tell you it is an utter falsehood.

And then there have been references to the refugees. What is the story of the refugees? 1,100,000 people came from Pakistan into India. Less than 100,000 people have gone from India into Pakistan after the great migrations. A million

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more people came from Pakistan to India even during the migrations. Sir Muhammad has quite unfairly drawn the attention of the Council to the grim atrocities of which both countries are ashamed. It is quite true that in the post-partition period there was tumult in India and other circumstances which it is not thought necessary to refer to at the present time. So far as my country is concerned, my Prime Minister and Mr. Gandhi, everybody, has repeatedly stated that it was something that the whole world, not only our own people, but all human beings, was ashamed of—but that has nothing to do with this Kashmir situation. It had to do with other matters and the promotion of this communal rancour or the misrepresentation of men like my Prime Minister in public—all this is likely to create bad feeling and only lays the foundation for more difficulties in future.

188. *Text of the speech Made by Mr. Krishna Menon (India) in the Security Council meeting No. 1016 held on 22 June 1962.*

We have sat at this Council table now for several days, listening patiently to discover some reason for the convening of this meeting and to what its deliberations are likely to lead. We have now reached the stage when from our point of view, the unfortunate position was reached yesterday, when the United States received seven votes and was therefore able to continue this meeting. My Government has always taken the view that there was no reason for convening the Security Council because no new situation had arisen to aggravate any positions in Jammu and Kashmir, so far as we are concerned, although there might have been actions on the other side.

We understood that that was the position of a large number of countries and that this meeting was convened merely at the insistence of the State of Pakistan, with which others concerned agreed. My country, Government and people are mystified by the fact that, though the insistence was on the side of Pakistan, the initiative in the debate was taken over by the United States from the day the present sitting began.

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This afternoon—though I did not see it till this moment, I saw this draft resolution this morning—we still had hopes that, realizing the consequences of the action that is proposed in the resolution on the general situation in Jammu and Kashmir, Ireland would refrain from putting its name to the draft resolution which we had expressly informed that Government would be regarded by us as an unfriendly act—I do not want to exaggerate this, I am sure my friend, Mr. Boland, would accept it in the spirit in which it is made. I think that the sense of shock in our country about the Republic of Ireland being the spokesman—I would not use any other word—of this particular move would be very considerable. The relations between our two countries did not begin yesterday, and I mean the close relations beween our two countries. They go back to the last century, right through the period of the struggle of the Irish people against repression and empire, to that dispossession of their lands and all the troubles that went on, to the days when the Mayor of Cork died in his defiance of the Empire. Later the Irish Free State was formed. However, Ireland was not formed by a process of agreement ; it was formed through the imposition of force by the Empire. However that may be, I cannot but say, in sorrow—not in anger but in sorrow - that we deeply regret that Ireland has become the spokesman for this draft resolution, although it is perfectly within its sovereign rights to do what it likes. Equally, so are we, to think as we are led to thing about it.

Now we come to the text of this draft resolution. We do not yet have the text of Mr. Boland's speech in our hands, but I listened to it very carefully. The sentiment that ran right through it was that this draft resolution represented the consensus of opinion in this Council or the majority opinion. I have been at some pains, after Ambassador Plimpton's speech yesterday, to analyse this assumption. In that analysis one finds that the statement does not reflect the opinion even of the majority ; it reflects the opinion of Pakistan, whose case has been somewhat ably argued by a number of members. First of all, it was said that seven members—that is to say, the majority in this case—are supporting this position. Yesterday Ghana,

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on the one hand, and Venezuela entered their caveats against that statement. Mr. Haseganu suggested when he spoke that the UNCIP resolutions were impracticable or that they could no longer be implemented. This is therefore not part of the majority view. The total number of members who supported that point of view would be five and not seven. The majority of the members did give expression to sentiments in regard to negotiations, so called, between Pakistan and India. Most of them—I believe with the exception of the United States and the United Kingdom—emphasized the necessity of creating the necessary atmosphere for fruitful talks. If I am wrong about that, I shall withdraw it. Ambassador Plimption also quoted five members in support of the idea of the good offices of a third party. Two members—Ireland and Ghana—qualified their statements. The remaining three, even if we take all five as constituting a group are still a minority. Ambassador Plimption said yesterday that all members had not failed to comment on the responsibility of the Security Council in this matter.

We do not deny the responsibility of the Security Council. On the other hand, the main basis of our position would be that the Security Council has a tremendous responsibility, but that the question is whether, in exercise or discharging its responsibility, it is doing so to any benefit. Ambassador Plimption quoted seven members in support of the view he had taken. Four members, the United Arab Republic, Ireland, Chile and France qualified their statements in this respect. The remaining three constitute a minority. I am not going to say any more about this aspect now ; I shall do so at a later stage.

Then we come to the draft resolution itself [S/5134]. We have no vote in this Security Council. We are here by invitation under the relevant article of the Charter in order to participate in these proceedings. It is the practice of the Council to hear the views of the party concerned as though we were a member, except for the purpose of voting.

At the present moment I propose to confine myself to this

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draft resolution and not to dwell on the large numbers of statements which have gone into the record, statements which my Government cannot intend to leave uncorrected. The first paragraph of the preamble reads :

> "*Having heard* statements from representatives of the Governments of India and Pakistan concerning the India-Pakistan question".

I suppose this refers to the speeches made in April and May in regard to which the representative of the United States and of the United Kingdom wanted time to contemplate. They contemplated for a month and a half or approximately that time, and then acquiesced in calling this meeting—under Pakistan pressure. They did call this meeting, however, and have expressed their opinions—no doubt, after contemplation. They still wanted time to contemplate : that is to say, it is right to conclude that either they made those statements after consideration, or without consideration. We decline to believe the latter. If they made their statements after consideration, my Government does not see any reason whatsoever why these meetings should have been dragged out almost to the point of dilatoriness. As I stated previously, this is hardly the way to treat a Member State of the United Nations. Having suggested that there was some grave urgency in this matter, and after one of the Governments concerned had communicated the difficulties it had in attending meetings of this kind—meetings which would serve no purpose whatsoever—the Security Council has met for a couple of hours each day, not for the purpose of further clarification here but no doubt for other reasons which we now see resulting in this resolution.

My Government, first of all, is against any resolution coming from this Council at this time, because from our point of view, any resolution that might come out at this time would not have any factual relevance. It would not be of any value unless it was a resolution calling upon Pakistan to vacate its aggression. That the Council is not ready to do. Some day it will do so ; we do not consider that impossible. We think that

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any resolution from this Council, like the present one, will only be interpreted in India, on the one hand, as a very partisan statement. The effect on Pakistan, on the other hand, would be to lead it to think that in this matter and in its aggression it has the moral support of the great Powers who occupy these chairs.

However, dismissing this aspect, we come to the next preambular paragraph which reads :

> "*Having considered* the Report of the United Nations Representative, Mr. Frank P. Graham".

I presume that this means a private consideration because we have not considered the report in this Council. The report has been here for four years, it has never been presented and never been received. This does not worry us very much because Dr. Graham's position is one to which we are not a party. When the UNCIP was appointed after a certain amount of conversation, discussion, and so on, ultimately we became a party to it and we agreed to it. UNCIP dissolved itself and afterwards, with the exception of Sir Owen Dixon, the various representatives were appointed on the unilateral decision of the Security Council, to which we are not a party.

Following the traditions of our country, however, whenever these famous gentlemen have visited our shores, we have offered them our traditional hospitality in so far as our poor resources would permit, and we have treated them with the courtesy that is characteristic of our relations with visiting people. But apart from that, we have not recognized Dr. Graham's position in regard to this matter. We would not be prepared at any time to say that these efforts have in any way assisted in the solution of the Kashmir question, as it is now popularly called ; but rather that they have aggravated it.

Then we come to paragraph 1 of the draft resolution which reads :

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"*Reminds* both parties of the principles contained in its resolution of 17 January 1948, and in the resolutions of the United Nations Commission for India and Pakistan dated 13 August 1948 and 5 January 1949".

These three resolutions at least must be taken in two parts. The resolution of 17 January 1948 was an appeal to the two parties not to aggravate the situation.

For fourteen years, the Security Council knows—through the records and through the communications made to it by UNCIP, and by all the facts of which, as lawyers would say, you can take "judicial notice"—the resolution of 17 January 1948 had been continuously disregarded by Pakistan, by resorting to continuing and progressive aggression, which we fully discovered only afterwards and which was laid before the Council, and also to very substantial psychological warfare in the shape of propaganda for what is called the "jehad", the holy war against India.

With regard to the resolutions of 13 August 1948 and 5 January 1949, this is not the time to go seriatim into the various paragraphs. We want to say, however, and not merely for the purpose of the record, that we hope that even at this late stage some of the members will not allow preconceived notions on this problem to override the factual situation. These resolutions were hammered out between UNCIP on the one hand and, so far as we are concerned, our Government - mainly our Prime Minister—on the other. In regard to each of them and to the main parts of these resolutions, the UNCIP at that time gave us various categorical assurances. Those assurances were not private assurances ; they were not personal assurances ; they were assurances of the Security Council and they are commitments on behalf of the Security Council.

Therefore, we submit that we cannot speak about the 13 August 1948 resolution or the 5 January 1949 resolution without taking the whole of them as one body and, what is more, in the context in which they were formulated, and, even more,

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including the assurances. These assurances were to us very solid parts of whatever engagements we had entered into.

The word "obligations" has been used very freely, particularly by the United States. Speaking in the Security Council in 1957 and 1958, my Government made it clear that while it would honour all international obligations, the resolutions of 13 August 1948 and 5 January 1949—which, as I said, differ slightly from the resolution of 17 January 1948—were, in the view of our Government, engagements and not obligations. Those engagements were carried out in the context within which they came about, and if the resolutions were not implemented, the fault does not lie with us.

Therefore, to speak of the principles contained in the draft resolution as though no changes have taken place in twelve or fourteen years is not only unrealistic, but it is to disregard the political, economic and other realities—and the military realities—obtaining in our two countries and in our part of the world. What is more, it is to disregard the continual violation and flouting of decisions and resolutions and the concealment of facts from the Security Council.

Mr. Stevenson was at pains, in opening this debate in this particular continued series of meetings on 15 June, to read out paragraph 1 of the resolution on 5 January 1949. It was of course possible for him to do that if he so desired. It is possible to read the scriptures and to prove anything by one paragraph. The whole of that resolution, first of all, is supplementary to the resolution of 13 August 1948, and until the 13 August resolution had been implemented the 5 January resolution has no meaning.

Secondly, if paragraph 1 of the 5 January resolution must be read, then paragraph 2 must also be read, and there are so many others that should similarly be read with it. I do not intend to elaborate on the matter at this stage, but I want to say that clause 1 of the operative paragraph of the present resolution is probably stronger than any resolution adopted here, most of

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which we have not accepted. It is not in conformity with the facts that now obtain.

The only part of the resolution of 13 August 1948 that has been implemented by and large is the cease fire. It is the intention of my country to observe the cease-fire agreement until someone else seriously breaks it on a large scale and in such a way that it cannot be maintained any longer. So, even though the other parts of that resolution have not been implemented and logically we would therefore even be entitled to disregard the cease-fire agreement, we do not intend to do so.

Then comes paragraph 2 of the draft resolution which :

"*Urges* the Governments of India and Pakistan to enter into negotiations on the question at the earliest convenient time .."

I shall stop there and read the rest of it afterwards. Here I want to say that we have always taken exception to the practice of treating Pakistan and ourselves on the same basis in regard to this question. We are equal Members of the United Nations ; in that way we do not claim any differentiation. But in regard to this question they are the aggressors and we are the aggressed.

We brought a complaint here. That complaint is in regard to the situation created by Pakistan in respect of Kashmir. The only answer Pakistan give relevant to Kashmir on 15 January 1948 was to say that it was not invading, that it was not in Kashmir. That, therefore, is the first preliminary objection to treating India and Pakistant as though they were two peas in a pod. That has always been the usual British practice ; here, however, when it comes to a serious matter of this kind, we must go into the substance of the question.

We have said that this Council is not a court of law. You are not World Court. This body has no right to go into legal questions or to pass judgement on them. At best it is a body

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representing the United Nations and basing itself on the principles of political relations in terms of international morality and law, and I also submit that those who want remedies here must come with clean hands. But over and above that the immediate objection to this is that those who sponsor the draft resolution and, I fear, the majority of the Members of the Council either are ignorant of the fact or refuse to accept the position that in the last few months—let alone the carlier past —the Government of India, as embodied in the person of the Prime Minister, has repeated the head of the State of Pakistan to come and talk these things over—negotiatins may not be the right word, but any way the intention was to talk theses things over.

The Prime Minister, during his visit to West Pakistan, extended an invitation to President Ayub Khan on 23 September 1960. My Prime Minister went there. This invitation was renewed through Pakistan's Minister, Mr. Akhtar Huisain, on 10 January 1962, when the latter met the Prime Minister in New Delhi. The invitation was again renewed by our High Commissioner in Karachi on 1 March 1962. The Security Council was informed of all these invitations in document S/5060 and at the 990th meeting of the Council. Therefore we say that you cannot issue a proclamation in the air calling upon the two parties, when one party has invited the other to come and they have been refused. What is more, the other party said that they preferred to come not to us, but here. It follows that there has been no response to the move for bilateral meetings. If the resolution had said "calls upon the Government of Pakistan to respond to the repeated invitations of India and to go and talk to them", that would have been reality. But the approach adopted in the rsolution displays partiality and I am certain that my Government is not prepared to accept this position.

As regards the second point, the representative of France, the President, has referred to it more than anyone else. The resolution says :

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"... at the earliest convenient time with the view to its ultimate settlement in accordance with Article 33 and other relevant provisions of the Charter of the United Nations".

To a lay reader, a person who does not know the details and nuances of these things, if he reads this draft resolution alone, it looks very nice ; that is to say, what could be better than arbitration, conciliation and all those ideas have been set out ? He would therefore think this is a very equitable and honourable thing for nations to do, and what they expect from membership of the United Nations. But what is forgotten is that this issue comes under Chapter VI, under the pacific settlement of disputes, and not any where else.

It is and has always been our submission—and we shall continue to uphold it—that the position that exists in connexion with the so-called Indo-Pakistan question is not a dispute in terms of the Charter. It is a situation created by Pakistan's aggression on our territory, by the annexation of that territory and by the repeated violations of the principles and resolutions of the United Nations, and therefore Article 33 is inapplicable to this case in any way. But even if it is said that the substance of Article 33 can be defended on grounds of good conscience and should be accepted by nations—that is, negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement—I submit that all but the last have been tried all these years. We have had so many negotiation this – here, in Geneya, in Paris, in all kinds of places. There have been men of goodwill who have come over and talked to us and we have talked to them. So there have been negotiations, direct and indirect, times without number. As to inquiry, I suppose even the Security Council would be satisfied with the volume of material which has come out as a result of inquiry. As to mediation, this has also been tried, in the sense that men of goodwill have talked to us, including McNaughton, Dixon and Jarring.

However, when we come to arbitration, international law, as I shall point out at the approriate time, lays down

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certain principles that are basic to arbitration. There are some things that are arbitrable, others that are not arbitrable. That is true in individual relatiions, domestic and international relations. There are some things which are beyond arbitration ; The soverighty of a country, its independence and integrity, are not subjects for arbitration. The belief that they are so arises from a groundless fallacy of which the United States delegation has no cause to be guilty, because Mr. Warren Austin, speaking many years go before this Council, laid it down without any reservations whatsoever that sovereignty lay with India, and therefore there is no question that there has ever been any dispute on this matter.

We hold therefore, that, as regards the substance of Article 33 which would be applicable in good conscience - the substance of it, not the form of it—that has been carried out. The invoking of Article 33 in the resolution is a further attempt to exert pressure on us in this matter. The Securiy Council is being used as a means of propaganda, so that the represesntative of Pakistan can come here say, time after time : "Yes we agreed and India did not agree". What they agreed to is a different matter. "We agreed and India did not" : he has sometimes forgotten that the crucial resolution, the one of 13 August, was largely hammered out by us and, what is more, was accepted by the Government of India long before Pakistan touched it.

The draft resolution then says :

> *Appeals* to the two Governments to take all possible measures to ensure the creation and maitenance of an atmosphere favourable to the promotion of negotiations".

We have no objection to this appeal. But, so far as we are concerned, it is pushing an open door—and those who push an open door are likely to fall on their noses !

The draft resolution "appeals to the two Governments to take all possible measures"—when, for years, we have informed this Council of the psychological war being waged by Pakistan, and of the gathering of troops intruders, or threats

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of the same. Even this morning, the news from India is that, in the puppet regime of so-called "Azad" Kashmir, they have beed collecting people, and other agencies of Pakistan's creation have been collecting people, in order to make so-called tribal invasions of India.

I do not know whether at this time you want me to read many things out. The main mouthpiece of the Pakistan Government, the new spaper founded by the first President of Pakistan—some people regarded him as the founder of Pakistan —says :

> "The final settlement of the Kashmir question is not going to be worked out in New York. The hands of the Indian tyrant will be forced by other means, leaving him no alternative but to liberate his victims."

The same paper went on to say that, if India wanted a war, we would have one, and they would raze Delhi to the ground, and every city in India would be destroyed, and things of that kind. Fortunately, we take all these things in our stride.

On 9 May, the same paper said that on the BBC television – the BBC does not normally allow people to say things of this kind, I lived, long enough in Britain to know this—the representative of the "Azad" Government of Jammu and Kashmir said :

> "The faith of the Kashmir in the United Nations Security Council has been shaken, and they might soon take up arms on the Algerian pattern."

The same paper, reporting the answers to question by Mr. Ludovic Kennedy of the BBC, went on to say :

> "Mr. Khurshid declared that Kashmiris would take up arms rather than go on 'breaking their heads against the stone wall' of Indian intrasigence. He confirmed that the recently elected Council in "Azad" Kashmir had adopted

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a resolution requesting China for assistance in the Kashmir struggle for freedom. He also expected the people and the Government of Pakistan to held in Kashmir's fight for liberation from the yoke of Indian militarist colonialism."

Again, ten days afterwards, one of their leaders announced that "the All-Jammu and Kashmir Muslim Conference has decided to resume the Kashmir liberation movement following the failure of the United Nations to solve the Kashmir isssue".

A great deal has been said about the dignity, the responsibility and the role of the Security Council. Is the Security Council going to pass resolutions under theats of this kind—we had one when Sir Muhammad began his speech on the last occasions—I am glad to say that he modified it toward the end ?

"The All-Jammu and Kashmir Muslim Conference"—not a public meeting, you know, but the main political party, in so far as they have any political parties—"announced today its intention to resume the liberation movement by the middle of August of this year. This decision was taken at the annual session of the Conference, concluded today. The Conference decided to recruit 10,000 trained Mujahids (crusaders) within three months from today."

They cannot find people from "Azad" Kashmir to undertake this mission, and therefore, according to our information, 1947 is to be repeated:, and the tribal peoples from the North-Western part—what was formally the North-Western Province —are to be enlisted.

Mr. Bhutto, one of the Ministers of the Pakistan Government, said last month, after we met here—these dates are important—after we met and concluded the last session, this Minister, who must presumably be reflecting the views of his

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Government, even in a non-parliamentary system, told a news conference that "Pakistan now realized that the Kashmir problem would have to be settled by our intrinsic strength', and that the Kashmiris might rise to the same heighst as the Algerians."

I will not tax the Council with more editorials, because it can always be said that they have a free Press and that nobody can prevent anyboody from saying this or that. But the President of the "Azad" Government again comes on 27 May, a few days after we met here, and reiterates that—"The fight of liberation would have to be fought on three fronts——namely, the diplomatic front, the propaganda front, and on the ground." He also said that "he was glad that some people who until recently had talked of peaceful agitation had ultimately agreed with his point of view that the Kashmir liberation fight would have to be an armed struggle".

The representative of Pakistan at this table is one those people who have talked not about peaceful agitation, but about peacefuly settlment, I suppose there is a difference between the two.

I would ask the Council not to dismiss this newspeper, though it is one of several ; I would not say that it is an official paper—I do not mean to say that—but it is usually regarded as expressing the voice of the Government in that country, not only in this regime but in previous regimes. It goes on to say :

> "Pakistan must have the Kashmir question settled, no matter what it takes, no matter what it costs. Indeed, the repudiation by India of the Security Council resolutions, including the one calling for the cease fire, and the aggressive redeployment of her forces have made Pakistan's task a little easier. The great impediment to the liberation of Kashmir, namely, our obligation to maintain the cease fire, no longer exists. The grave danger to our territory, our interest and our people is mounting. Acts

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violence, of intimidation and threatening speeches have become a common feature across the border to keep us away from liberating our Kashmir brethren.

"Pakistan is threatened with an all-out war if the 'Azad' Government of Kashmir makes any move to alleviate the sufferings of the Kashmiris under Indian occupation, while that country's determination to occupy the 'Azad' territory is voiced on every conceivable occasion by the Defense Minister. These threats, of course, can hold no fear for us. If India wants an all-out war, will get one. If Lahore, Dacca and Karachi are bombed, Bombay, Amritsar and New Delhi will be razed to the ground".

Nobody has said anything about bombing Karach or any other place.

"For us in Pakistan, the virtues of peace are no different from the virtues of a war of liberation."—a very good statement—if it is a war of liberation—and when a great newspaper does not know the difference between peace and war, you know what you are dealing with !—"The people of this country were prepared for the present aggressive posture of India and the repudiation by her of international commitments, having witnessed the impotence of United Nations"—that is for you— ' 'and of the big Powers in regard to the occupation of the Portuguese enclaves. We should no longer ask ourselves whether we should start defending our country when the first bomb drops on our territory or when soldiers cross our borders. The time for active defences has come."—that is preventive war, you know – "Now is the time to thwart the designs of the Indian expansionists. The massing of forces within striking distance of our territory is an aggression of which we have to take note. The repudiation of the cease fire is nothing but a declaration of war. We have never sought and do not seek a shoting war, but neither do we want peace so much that we are willing to pay for it by permitting India to perpetuate an

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occupation of Kashmir and constantly menace our very independence. To gain our objective—the liberation of Kashmir—we should readily accept aid or friendship from whatever quarter it comes. What does if our friendship does not meet the nationalistic purpose of our allies ? As we have said, Pakistain regards as real friends only those who stand by it on the crucial question of Kashmir."

That may be reason why some peoples subseribe to these things.

The Security Council says that it is appealing to the two countries to maintain a peaceful atmosphere. As I said earlier, the appeal loses its point because you are pushing against an open door on one side. Even in the highest circles in Pakistan, no attempt has been made to create a favourable atmosphere. As I pointed out, not only has there been no favourable response to India's repeated request for a "no war" declaration, but even the invitation from the head of our Government to the Head of State of Pakistan, who is also the Prime Minister de facto, has not produced any response.

The representative of Pakistan has successfully made every attempt in the Security Council to keep this debate in progress and to create a sense of controversy in order, perhaps, to promote feelings of irritation with India and cause difficulties for that country.

The operetive paragraph 4 of the draft resolution reads :

> "*Urges* the Government of India and the Government, of Pakistan to refrain from making any statement, or taking any action, which may aggravate the situation."

We have asked this Council repeatedly for the past twelve years to point out to us what statement we have made that are aggravating the situation, even though the fact remains

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that forty thousand square miles of our territory are occupied by the other side.

The operative paragraph 5 of the draft resolution reads :

> "*Requests* the Secretary-General to provide the two Governments with such servics as they may request for the purpose of carrying out the terms of this resolution".

That part of the resolution is innocuous ; it is one of those omnibus clauses that are added on to resolutions. Furthermore, we do not want to bring the Secretary-General into this controversy at all. In any case, since we are not likely to request these services, that paragraph is inoperative.

This, therefore, is the draft resolution which has been submitted when each of the Governments concerned knows for a fact that it will not lead to the solution of any question. It will only aggravate the situation and will be used in Pakistan for a purpose which is entirely different from what is intended. Besides, it is entirely contrary to fact.

The draft resolution ignores several very crucial points that were made by members of the majority in this Council. One of these points is that conditions have changed. In spite of the fact that the representative of Venezuela devoted most of his speech [1014th meeting] to arguing the case for Pakistan, he did point out that there is no question about Pakistan not having any sovereignty in Jammu and Kashmir. If Pakistan has no soverignty there, I do not know how it dares to do anything on our territory. The fact that there have been many changes in conditions was recognized here by France, by Ghana and by Romania—which is not part of the majority, but still a member of the Council ; Ireland also spoke of this, but it does not appear in that country's resolution – Venezuela, Chile and the Union of Soviet Socialist Republics have all said as much. Everyone has referred to these changed conditions, and when the time comes for it, I propose to submit to the Council both

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the law and facts which apply to these changed conditions in Kashmir.

It is not my intention to make a more detailed statement at the present time but I hope, in fairness to my Government and in view of the large number of mis-statements that have been made in the Council—either out of ignorance or for polical reasons—that I will be allowed to put this record straight so that, on a future occasion, it will not be said—as has been said so often—that the Government of India did not take exception to this, that or the other.

We have the same feeling as a lot of other people that the repetition of these things is becoming a bit tiresome. But then, if I neglect to object to any particular point, that comission is brought up at the ensuing meeting and it is said then that India had no objection. Therefore, we intend at the appropriate time, if that is the pleasure of the Council, to put our position with regard to this matter more fully on record.

The only other speech to which I should really refer is the statement made by the representative of the United Kingdom. I shall not do so for several reasons. The first is that it is expected; the other reason is that I have no desire to aggravate the relationship between our two countries. But I hope that they will stop speaking to us in that fashion, enjoining us veguely to preserve the status of relations in the Commonwealth in regard to these matters. Pakistan is a milirary ally, not only one of the members of the Commonwealth. In the context of things as they appear, therefore, such statements, fall very unpleasantly upon our ears. But our relations with the United Kingdom, in spite of everything, are very close and no doubt Sir Patrick Dean follows his instructions and his own wisdom in the matter.

I wish to reiterate to the Council that in passing this resolution it will not be, as Mr. Boland has said, discharging a duty that will in any way promote the function of the Security Council to pass resolutions without a purpose. If I may say so,

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we sometimes develop a habit of doing and then do them whether they have a purpose or not. I remember being interviewed by a newspaper editor on television some time ago. He told me that I did not under stand his difficulty, that sometimes great problems arise in the world that are so difficult that it becomes impossible even for statesmen to unravel them yet the Press had to write editorials and pronounce on such problems in quick time I told him that I could understand the nature of an obligation to pronounce out of ignorance.

Shmilarly, there is no real obligation for the Security Cauncil to pass a draft resolution which is not likely to lead to anything but which will only proclaim to the world that this question has not received the kind of consideration that it should from members of this Council and nations that are committed to the same principles as we have observed in our country. Therefore, I submit, with all the earnestness at my command, that the uncommitted countries in particular should not now become parties, either passively or actively, to a resolution of this character.

I have no desire to analyse closely the other statements that have been made which will only lend strength to forces of disruption either in India or in relation to India and Pakistan, for that would not be calculated to lead to peace in our part of the world. Conditions have changed. Since I intend to refer to them more fully later on, shall not do so now—I therefore request the members of the Security Council, even though a draft resolution is before them, not to complicate the difficulties in the situation by adopting it or even supporting it.

189. *Text of the speech made by Mr. Zafrulla Khan (Pakistan) in the Security Council meeting No. 1016 held on 22 June 1962.*

If I have requested permission to speak at this late hour and at this late stage in the proceedings of the Security Council, it is for a very definite and precise purpose. I have no intention of starting or resuming a debate, but in view of certain

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statements which the Defence Minister of India has made—statements which he had an absolute and perfect right to make but which, if I did not say anything with regard to them, might create the impression that Pakistan had either accepted them or acquiesced in them—I feel some comment from me is necessary. I assure you that my comment in each case will be quite brief. I will not take up everything that he has stated, but only certain outstanding matters.

He started by saying that there is no dispute between India and Pakistan. That is not in accord with the record. There has all these years been a dispute between India and Pakistan over the question of the accession of the States of Jammu and Kashmir to India or to Pakistan.

With regard to the resolutions of the United Nations Commission for India and Pakistan, certain matters have been referred to—and they had also been referred to before—as having become inoperative for certain reasons. Some of the reasons that were adduced were also adduced before the Commission itself and the Commission took note of those matters—for instance, the validity of the accession, the sovereighty of India, the alleged aggression by Pakistan : and it was after they had taken everything into account that they proposed their resolutions, which were then accepted by both parties. Those matters were therefore covered by the resolutions. The substance of the resolutions which both parties accepted was apart from the procedure through which that substance was to be given effect, that the question of the accession of the State of Jammu and Kashmir should be determined through the democratic method of a free and impartial plebiscite. Why is it alleged today that the resolutions are no longer operative and that the plebiscite is no longer in order ? I will comment briefly on some of the grounds.

Firstly, it was stated that India had never agreed to the plebiscite. This again is manifestly contrary to the record. There were statements that the question would be so decided, statements on behalf of the Government of India by the Prime

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Minister of India and other responsible authorities. There were assurances, there were pledges, there were Security Council resolutions, there were the UNCIP resolutions that were referred to. It is too late now to contend that was never agreed to or accepted.

Secondly, it has been stated that the resolutions have become inoperative because Pakistan has not complied with its obligation to withdraw its troops completely from the "Azad" Kashmir territory and that that is why the further implementation of the resolutions was blocked. Now, the question of what was the obligation undertaken by Pakistan and when it was to come into operation is in dispute between the parties. On behalf of India it is stated that that obligation had to be carried out completely before any further implementation could take place. That is not the text of the resolution, that is not the explanation of the Commission : but I will not enter into that. Assume that India may be right or that, on the other hand, Pakistan may be right : that is a question in dispute. The determination of that question depends upon where the responsibility lies for the blocking or obstruction of the further implementation of the resolutions. That question needs determination.

Thirdly, it is said that inasmuch as a long time has elapsed since the resolutions were accepted, their implementation is no longer feasible. There the important question that arises is : Who is responsible for the long time that has elapsed without implementation ? That again is a question to be determined. If it is Pakistan that is responsible for the delay, it may be that Pakistan cannot today, thirteen and a half or fourteen years after the resolutions were accepted, after having blocked their implementation, request that they be carried out. But assuming that whatever determination takes place finds that it is India which is responsible for blocking the implementation and for the long lapse of time, surely India could not then take advantage of its own default by saying that, since it has succeeded so long in blocking the implementation of the resolutions, it should no longer be called upon to implement them today.

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Fourthly, it is stated that certain changes have taken place and that therefore the resolutions cannot be implemented. That, again will depend on what type of changes have taken place and on what the effect of those changes may be upon the obligations undertaken by the parties under the resolutions. Again, a question which must be determined.

Fifthly, it is said that the resolutions and the plebiscite cannot and indeed need not be carried out, because the people of Kashmir have already expressed their wishes three times, during elections, with regard to the accession. On this I will submit just three very brief comments.

First, not all the people of Kashmir have taken part even in the so-called expression of the wishes of the people. The people of Kashmir who were fighting in 1947 and 1948 have not expressed their wishes in this matter because they have relied on the assurances of the Security Council that the fighting should cease, because what they were fighting for would be assured to them by peaceful methods. They are waiting for those assurances of the Security Council to be carried out.

Secondly, when the Constituent Assembly of Kashmir was about to be set up and Pakistan brought the matter to the notice of the Security Council, solemn assurances were given on belalf of the Government of India—assurances which are on record--that although the proposed constitutent assembly could not be physically stopped from passing a resolution on the matter of the accession, the Government of India assured the Security Council that if they proceeded to do so, that would not affect the matter before the Council, and the Council proceeded to pass resolutions to that effect, not once but more than once, Consequently, an expression through the constituent assembly cannot decide the matter.

I would submit, therefore, that it is neither a safe nor a valid contention to hold that a unilateral pronouncement by one of the parties who have undertaken international

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obligations towards the Security Council and towards the other party to a dispute—or to a situation, whichever way it may be described—releases that party from its obligations. This as I said, is not a safe method. Indeed it is a very dangerous principle, for if it were accepted it would block all peaceful settlement of international disputes.

In my original submission to the Security Council I pointed out, and I now repeat, that if India is anxious to be released from its obligations under the UNCIP resolutions on any of these grounds, on all of these grounds or on any other grounds which may or even which may not have already been mentioned by India, then there is one method of doing it. It has been stated by the Defence Minister of India that the Securiry Council is not a judicial body. But there is a judicial body available for the determination of justiciable questions—and all these questions are either pure questions of law or mixed questions of fact and law. If India wants a release from its obligations on any of those grounds, it should propose as much to the Security Council and request an advisory opinion of the international Court on all these matters—the validity of the accession, the question of the sovereignty of India over the State of Jammu and Kashmir, questions which are in dispute and have not yet been determined. Therefore, it is begging these questions to say that India treats them as though they are determined in its own favour.

Taking all those matters—all the considerations that India has mentioned here and any others that it might be desirous of including for determination—into account, the real question in the case to day is : Having regard to the changes that have taken place, to the time that has elapsed and to the fact that the implementation of the resolutions has been halted, under all these circumstances, what are the obligations of the parties under the resolutions ? That would be a fair way of making a determination. Let the international Court determine these matters, if India wishes to request such a determination, and let the parties agree in advance that they will accept the deter-

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mination of the International Court and carry out their obligations accordingly.

The PRESIDENT (translated from French): I have no more speakers on my list, I think that at this stage of the debate there is no need to repeat discussion we have already heard and I do not think that this is the place in which the conversations which have been referred to should begin. In giving the floor to the representative of India, I shall ask him to be as brief as indeed I think it is his intention to be.

190. Text of the speech made by Mr. Krishna Menon (India) in the Securlty Council meeting No. 1016 held on 22 June 1962.

In my last statement, when I spoke on the draft resolution. I took care to reserve my position with regard to the various statements of the members of the Council. I deliberately did not make those comments at that time in order that the Council might proced with its business on the draft resolution. Even after I had made that reservation and the voting had taken place, and there had been another long discussion on which it is not my business as a non-member of the Council to comment. I still had reservations with regard to entering into a debate again. Although the representative of Pakistan had all time—from the fifteenth of this month onwards – and the liberty to intervene in this matter, he did not do so. Now he has spoken at the tail end of the discussion, It would harldy be fair to my country and Government to leave unanswered the statements which, if they remained unanswerd on the record, might perhaps be taken as unanswerable. That would not be proper. My Government and I would not be able to justify this to our people or to our Parliament.

Although the representative of Pakistan, with all his skill and ability, has tried to condense these points, it is necessary to reply to them because what he has been to throw a number of stones—a stone can be a very small one but it can hurt

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a lot and its impact can be widespread. It is quite easy for Sir Muhammad to say that accession is in "dispute", it is then necessary for me to prove that it is not in dispute. The tactics are the same as in the case of their infringements upon our border. They choose the place in which to fight. If we shoot it will be into the jungle, but they can shoot in our villages. They choose the place of the aggressor. These are always the tactics of people who do not follow the rules of war or peace. I shall deal with these points one by one.

First, the representative of Pakistan said that the Government of India has said that there is no dispute. This is certainly a "dispute" in popular language in the sense that there is a diffeernce of opinion, there is a difference of views, there is a difference of interests; but there is no "dispute" in terms of the Charter. It is a "situation" which was created by the aggression of Pakistan against the territory of India. At one time it was admitted by Pakistan itself, in that they said that they were not there. Therefore, other people who came there were not authorized to be there. We maintain that this is a situation of aggression and not a dispute. They have said that there are points in dispute, namely accession. Accession, even if it were in dispte, would not come here. Validity of accession, at best, is a legal point. There is no dispute about the fact of accession; the fact is with us. One third or one fourth may remain with them by illegal occupation. Therefore, even if the issue were merely a question of the legality of accession, it would not have come here.

But since Sir Muhammad raises this question of accession again, what am I to do except to point out that, as we have repeatedly said, the accession of the State of Jammu and Kashimir to the Union of India, both by her Act of Accession and by our Constitution, by the agreement of the British Government, Pakistan and ourselves, is full, complete, final and irrevocable. Therefore, any removing of the State of Jammu and Kashmir, or any part of it, from the Union would be an act of cession and an act of disintegration of our

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country. Therefore, it is not right to say that accession is still in dispute.

As I said once before today and once on a previous occasion, this was admitted and was stated in this Council by no less a person than the representative of the United States, whose statement I quoted on the last occasion, when Mr. Warren Austin said that the sovereignty of Kashmir lay with India, and that is why she is here otherwise she would not be here at all. Moreover, on the question of accession, if it was a dispute, the Security Council still could not be seized of it. On the other hand, if Kashmir had not acceded to India, we would not be entitled to be here.

Then comes the question of the UNCIP resolutions. This is a matter which unfortunately requrres very considerable elaboration. It does mislead a number of members of the Council who, I have no doubt, are well intentioned. It has been said more once that two UNCIP resolutions wash out all our contentions about sovereignty and so on. In fact, they do nothing of the kind. Each of the main paragraphs in these resolutions was discussed by the Commission and by the Government of India, mainly by the Prime Minister, and when we agreed to it clause by clause or part by part it was in the context and on the basis of the assurances that were given to India. I could read the text to the members of the Council if they had time to listen. But I sall summarize the point of these assurances.

The first assurance was : "Responsibility for the security of the State rest with India." This was not only agreed to by the Commission, but it was also stated in the resolution of 13 August itself, when the Government of India was asked to maintain garrisons in the Northern areas, to keep external forces from coming into our territories, and to assist in the maintenance of law and order within the cease-fire lines in the places which are now illegally occupied by Pakistan and which it was anticipated they would evacuate, so that the territory would be returned to India.

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Secondly, "The sovereignty of the Jammu and Kashmir Government over the entire territory on the State shall not be called into question". On this particular matter—and I would like my colleagues to my note of this—pointed questions were asked by not Prime Minister and the answers were given by the Commission in the manner I have mentioned.

Thirdly, "Plebiscite proposals shall not be binding upon India if Pakistan does not implement parts I and II of the resolution of 13 August 1948". Part I has not been implemented. The only part of this resolution that has been implemented is the cease-fire part. Even Mr. Gunnar Jarring, when he went to India, discovered that the implementation was open to question: If you look at the resolution, you will see that part I, para. A, deals with the cease fire which has been implemented. Para. B follows "The High Commands of the Indian and Pakistan forces agree to refrain from taking any measures that might augment the military potential of the forces under their control in the State of Jammu and Kashmir." That was 13 August. The Commission itself found on 13 August that they had organized forces, that battalions had come into existence. The Commission itself said that created a "material change in the situation" and that therefore it could not be said that the provisions had been implemented. Therefore. the whole of paras. B and C remain unimplemented. Unless these are implemented, we do not come to the second part. In spite of that, we went on discussing truce terms envisaged in part II in the hope that part I would be implemented.

The fourth of these assurances given was that, "There shall be no recognition of the so-called 'Azad' Kashmir Government". I am bound to say that there has been no recognition by the United Nations although attempts have been made in that direction. But Pakistan. is a party to this agreement. There were no "Azad" Kashmir forces recognized at that time, they could not be recognized as an entity, let alone as a government.

The fifth condition was that "The territory occupied by

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Pakistan shall not be consolidated". Not only has it been consolidated, but it has been annexed to Pakistan under their constitutional law and some sort of accession obtained from some parts contrary to any provisions anywhere.

The sixth assurance refers to the : "Reversion of administration of the evacuated areas in the north to the Government of Jammu and Kashmir and its defence to the Government of India and to maintain garrisons for preventing the incursion of tribesmen and to guard the main trade routes."

I was to submit that what I am reading were and are not demands by India, and were not proposals submitted to the Commission but are assurances given to India on behalf of the Council.

The seventh of these assurances states that : "Azad" Kashmir forces shall be disbanded and disarmed". That is to say, since these "Azad" Kashmir forces were presumed to be at that time for the most part people from that area itself, they could not be sent away; they belonged there. Therofore, the only thing was that they should be disarmed and disbanded. There was some argument about this, and the Commission ultimately agree that disbanding and disarming go together and cannot be separated.

Finally, there is : "The exclusion of Pakistan from all affairs of Jammu and Kashmir". Right through this argument there is no question of Pakistan having anything to do with this plebiscite, except under the control of the Plebiscite Commissioner at the time of the plebiscites. If it came about, they could have observes. The Plebiscite Commissioner was to be appointed by the Government of India, the administration was to be provided by the Government of India, as is the custom in taking plebiscites in Trust Territories. That was the position in regard to these assurances.

When speaking about this resolution, therefore, you cannot divorce it from these assurances and the other assurances that have given at various times. As the President has asked

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me to be brief, I cannot say very much more on this question.

Then we are sometimes asked, why is there no plebiscite ? Apart from the question of "changed conditions", the impossibility of taking it, how can we take a plebiscite, even if we wanted to, unless part I and then part II part III of the resolution of 13 August are implemented ? In the imelementation of part III will come the discussion between the Government of Pakistan and India separately with the Commission as to the manner of determining - there is not even a reference to a plebiscite in the third part of the resolution - the future of Jammu and Kashmir in accordance with the will of the people. The implementation of part III was prevented not by us but in Pakistan from those days onwards. We immediately proceded to democratize the area under our control. Elections have taken place not only nationally, not only in towns and urban areas, but also in villages all over the territory. There is democracy in the areas administered as part of the Union right down to the village level. I know that this is not part of the pattern of Pakistan, but that does not mean that it is not what was intended. We had never agreed to a plebiscite under any circumstances, but to a plebiscite at that time following all these things step by step. In any case, there has been no opportunity, even within the existing limitations, for the people of the socalled "Azad" areas to rxpress their views in any way whatsoever.

The taxts of these resolutions are before you and, as I pointed out, each of these paragraphs was agreed to in this way. India accepted this resolution, Pakistan did not accept it at first. After three or four months of negotiations, they stated their acceptance.

Then came the 5 January 1949 resolution. Mr. Stevenson has refered to one paragraph in it. It should be understood that the 5 January rcsolution was supplemental to the previous one. It is like an architect's plan, that is, when the third part of the resolution was implemented then, if we agrerd on a plebiscite, the way of doing it was there. That was the idea of

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that resolution. It is clearly set on it paragraph 4 (*b*). We have nothing to hide in this matter.

It is quite true that immediately after the cease fire, which incidentally we helped to bring about—and it was done in the context of an advancing, not a retreating army—we did think of a plebiscite as a solution once the State was rid of the invader. The entire on us of delay in this matter of prevarication and obstruction, has been on the side of Pakistan, largely, I am sorry to say, on account of the support given to it by other people; I do not mean military support only, I mean support largely through interpretations arising partly from lack of knowledge of this matter or from other reasons.

I shall skip a number of other points and then come to this point raised by Mr. Muhammad Zafrulla Khan which obviously will have a kind of superficial appeal for some people, that is to say, that the Security Council had promised the people who were fighting for liberty in Kashmir that the matter would be settled in a certain manner. Who were the people fighting for liberty in Kashmir? Pakistan and its predecessors were fighting for the British Government against the people who were fighting for liberty in Kashmir.

It was also said that the whole of the trouble in Kashmir arose because of the rebellion against the Maharajah by the people. As I said, unfortunately for me but perhaps fortunately for you, because you do not want to be bored by it, there is a whole set of papers here which I cannot read out now. If it is the desire of the council, we could either file them as a document or read out to you. This is the diary of Major-General Scott, the British Commander of the Maharaja's forces. He was not suppressing a rebellion. There is no instance in this diary, except in one or two places, of incidents occurring in which the local population joined the intruders. Apart from that, the diary of Major-General Scott, which I intend to submit as one of the documents, states on 31 August 1947, that is to say sixteen days after independence, in a note; "Encounter on 29th between the

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Military proceeding to Bagh and hostiles who were armed with modern rifles. . ." I will not read all of it because it is well documented. The Maharaja's army was not dealing with the population of Kashmir but with the people who had come from the trans-Kashmir area from and over the territory of Pakistan. We had been told by the then Prime Minister—and we had accepted in good faith—that this invasion was not undertaken with their connivance or their assistance. The intruders, we were told, could not, be stopped because they were co-religionists or something of that kind. They were, however, the armed gangs from west of the Jhelum River and they had been at large in Western Poonch since 4 September.

We see an entry in Major-General Scott's diary on 16 September 1947 as follows: "Report in Pakistan army visited Albeg on 14th within State border and a Sikh centre".

Unless this diary is read out fully, it does not convey the whole picture. In view of the President's appeal, I am however prepared to be brief and not do this. Therefore, any idea the Council may have here of poor people being suppressed by a tyrannical Maharajah, whom we had gone to rescue, is an entirely wrong picture. What happened was that the territory, after the breaking of the standstill agreement by Mr. Jinnah, who is no longer with us, was invaded by external forces and hordes. They committed plunder and rapine, even burned churches, committed atrocities on nuns and what not, and did everything I read out to you last time. It was in those circumstances, when nearly a quarter of a million of these people, who came from outside, were destroying the State, that accession was offered by the Maharajah, not in the way suggested by the representative of Venezuela according to which he simply signed a form. He wrote saying that "my people have been destroyed, my State will be destroyed unless you come to our rescue. Since I know that India will not go beyond its borders with its armed forces, I have made up my mind now to accede to India".

The argument that is being repeatedly advanced is that Lord Mountbatten said something at that time and wrote in

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letter at that time. No one denies this. What is more, he wrote it on the advice of the Government of India, for he was the constitutional Governor-General. What is to be remembered, however, is that there was a document of application for accession and an acceptance by the Governor-General which made the accession complete. The letter is not part of that document, it is a separate matter. Once accession is completed, anything else that is said is a unilateral declaration on our part which it may be moral or immoral for us not to implement, but it is not a matter for the Secutity Council. We could not implement in the way we desired because as we said even then, and it has often been repeated in this council, even by our friends, that Lord Mountbatten also said, it was to have been implemented when the country was rid of invaders—and the country has never been rid of invaders. It was not as though anything he said had been morally, legally or otherwise breached in performance.

Then, reference has been made to the Constituent Assembly of Kashmir. In 1957, the United States delegation was slightly misled on the question of the Constituent Assembly. In fact, they thought that the delegation of India had made long speeches in order to practise what is familiarly called in this country fili-bustering. I could not have filled in for five days in any case, but over and above that we have said from the very beginning—not vis-a-vis the Security Council, but vis-a-vis the Constitution of India—that under our system the States may express the forms of government they want, and so on. It is quite unlike the United States where they have State rights vested in the States: our reserve powers are in the centre. And so we say, well, of course, we will very gladly allow you to say all these things, but they will not be legally binding. They have, or may have, a moral effect, no doubt, but they are not binding upon us. There was no need to drag in the Constituent Assembly here, but if the Constituent Assembly discussions have any validity, they are all against the case made by Pakistan, I have no desire to repeat all the details because they have also been placed on the record.

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There have also been references to unilateral denunciations. We have made no unilateral denunciation of any treaty, but everyone is well aware that no country can carry on an agreement that is totally against its interests. We cannot, whatever may be pleaded, accept anything which will lead to the dismemberment of India.

We are told that we want a release from the UNCIP resolutions. We want nothing of the kind suggested or implied by those who say this. If we wanted to be released from the UNCIP resolutions, why do we honour the cease-fire line? Yet it is a cease-fire line which we have many reasons for terminating, because it is not always administered—according to us—with the degree of impartiality that is required of those concerned. What is more, Pakistan, even after the marking of the cease-fire line, has taken territory—which we could retake by force, but that would lead to an aggravation of the situation. So, striking a balance, we let them keep it for the present. There are other parts on the other side of the international frontier of Jammu and Kashmir where there have also been breaches of this kind by Pakistan. As many as 140 violations of the cease-fire line have taken place this year. There are approximately ninety or ninety-five incidents inside Kashmir organized by Pakistan, by way of violence and sabotage, in which Pakistan, British and American ammunition has been found. I am not for a moment suggesting that either the British or the Americans gave it to them for this purpose, but what I am saying is, give a child a knife to play with and he will hurt somebody. He will not ask his parents' permission to do so.

We have been asked why we do not go to the World Court for an advisory opinion. I certainly understand Mr. Zafrulla Khan's respect for the World Court; he has been there for some time, but this is not a matter for a World Court or for an advisory opinion. This is a political issue and, what is more, we are both members of Sir Patrick's much-loved common-wealth and under the terms of our adherence to the World Court we have made some exceptions in regard to the matters which can be referred to it, and while there may be reason why

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they or we should not change these reservations, we are not going to pour the baby out with the bath water, without finding out what the consequences will be. What with the common and the uncommon markets, all kinds of disputes may arise and we shall find ourselves, instead of being in a fraternity, engaged in all kinds of litigation. That is my personal opinion. So the question of reference to the World Court does not arise.

Before I conclude, and I shall not take much more time, I should like to refer to the scepticism that exists in regard to our argument about changed conditions. Let me point out what it means. If I had the time I could quote instance after instance in which the United States, from the time of the Revolutionary War and its independence right up to the time of President Roosevelt, has invoked this doctrine of *rebus sic stantibus* in order to get out of obligations which could no longer be applicable. However, there is no time to do so and I will leave matters there, but the United States alone is not in this; indeed, every important country in the world has had to act accordingly when the conditions under which agreements had been reached no longer obtained.

In 1881, the United States invoked certain changes of circumstances as a reason for revising the provisions of the Clayton-Bulwer Treaty of 19 April 1850 between Great Britain and the United States. Lord Granville, who was the British Secretary of State at that time, replied that the opinions of acknowledged writers on international law could be quoted in support of his own opinion that "The principles upon which the whole argument of the despatch is founded are . . . novel in international law". He therefore treated the matter from the side of the practical considerations it involved, reserving the legal dispute. That is to say that at that time even the British Government, while having doubts about it, did not reject it.

Then other Secretaries of State—in regard to the Panama Canal, a very sore subject - argued in 1882 and 1883 that the treaty was voidable because the articles relating to the Canal

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had become obsolete, and because Great Britain had violated important provisions of the treaty. The first contention was based upon an interpretation of the treaty, contested by Great Britain, according to which the treaty related "to a particular ship Canal to be constructed by a particular company", and so on. So, anyway, conditions had changed.

Then we come to the Secret Treaty of London of 1915. France, Great Britain and Russia agreed with Italy in 1915 that if the latter entered the war against the Central Powers on the side of the Allied Powers, the former would consent to the extension of Italy's frontiers in case of victory. But President Woodrow Wilson argued in 1919 and 1920 for a revision of the treaty of 1915, diminishing the rights promised to Italy because "the whole face of circumstances has been altered" since 1915. That was with regard to a street treaty which, at that time, was considered to be even more binding than an open treaty.

I shall not read many more of these. There are so many of them. There is your own country, Mr. President. On 10 July 1929 France invoked precedent and practice in its support of the doctrine of *rebus sic stantibus*. Mr. Paul-Boncour asserted that "a series of diplomatic notifications emanated from the British Government which denounced, by virtue of the same clause *rebus sic stantibus*, a whole series of treaties concerning the abolition of the slave trade, believing that the treaties which had ruled a determined situation in the middle of the century no longer responded to present circumstances". He asked:

> "What was the reception afforded to this act—this unilateral act—of a great Power declaring the treaties abrogated the sole fact that they no longer corresponded to present circumstances, though none had mentioned it save Great Britain? What was the reception given to this unilateral application, pushed to the extreme of the clause of *rebus sic stantibus*?" His conclusion was that no objections were raised, and that the incident constituted.

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> "A whole series of examples which prove that it is a constant rule of public international law that, even when it is not expressed, the clause of *rebus sic stantibus* is tacitly understood in treaties of unlimited duration".

I wish to say here and now, firstly, that because I have read only a few such instances, that does not mean that there are not many more of them, and Security, that we are not for a moment suggesting that either the resolutions of the Security Council or anything else that takes place here have the status of a treaty. We are saying here that even if they were a treaty, that is the situation. We have not accepted the position that there were any treaty obligations, or even that they are obligations. We have said that they are "engagements" which we have entered into, and that they therefore cannot be treated as treaty obligations.

Then it might seriously be asked whether these "changed conditions" of which we speak are so serious as to affect our position. Our answer is that conditions have changed in the sense that Pakistan, in violation of its obligations under international law, has annexed our territory, committed fresh aggressions after 13 August 1948, taken over the territories in Gilgit and other parts of the northern areas, accepted accessions—or some similar thing—from the small titular chiefs in the northern part of the Kashmir area, in Hunza and Nagar, thereby changing the whole political contours of this area, and has thus created changed conditions. Secondly, Pakistan has entered into a military alliance with other countries, both of Asia and Europe, whereby—as representatives will find if they read the SEATO treaties—along with most of them, and as a party to that agreement, Pakistan takes South Asia under its protection. The political map has thereby been changed, and all this was done after the Kashmir situation arose.

Thirdly, conditions have changed because of the creation of "Azad" Kashmir - practically a separate entity. Sometimes we are told it is administered from Karachi, now from Rawalpindi. sometimes not. It may be that a separate State has been

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created. But conditions have changed by virtue of there being at least twenty-five to thirty battalions of so-called "Azad" Kashmir forces – which are front forces for the Pakistan Army —today, equipped with modern weapons made available to Pakistan from its own resources or by its military allies.

It was expressly stated that the territory under aggressive occupation should not be consolidated. That was part of the undertaking given to us by the Commission. The consolidation, as I said, has taken place—in fact, so much so that they have a Minister of Kashmir Affairs in their Government.

I will not say anything about the psychological war that continues to make it impossible under the circumstances to obtain affair plebiscite. We are a secular State, all of our organization is political and has nothing to do with the religious aspect of a people. We are not prepared to face a position where religious fanaticism is to be, or is, protected.

Over and above all this then has occurred the situation in which Pakistan today—not for any good reasons, but merely for nuisance value and as an instrument to put pressure on us —has entered into negotiations and, I believe, has concluded agreements with the Central Government of the People's Republic of China. That agreement is in total violation of any rights or authority Pakistan may possess, for Pakistan has no sovereignty over this State; it is not Pakistan's to trade away or negotiate about. Secondly, it was not necessary even for considerations relating to Pakistan's own security. What is more, it has been done on a basis which we cannot accept—that is to say, our position in regard to China and Chinese claims, which is not under discussion before the Security Council.

Our frontiers are "delimited" and "demarcated". For the most part, they are demarcated, but they are delimited throughout. Our frontiers are delimited in their entirety by historical circumstance and all the other factors that go with it, and demarcated in places. Now, Pakistan has agreed that they are neither demarcated nor delimited! That is to say, they have

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sold away our birthright in so far as they could. All these changes that have taken place in regard to our own territory and in South-East Asia are matters which make the position, as you see in the book, no longer possible.

I am sorry, therefore, that some countries which, quite rightly, have an affinity for legalisms, take one clause out of an agreement and say that we agree to self-determination or something of that kind. This is not tenable.

I am sorry that other extraneous circumstances have lengthened the meeting to this extent, but mainly thanks to your kind courtesies and to the patience of the members. I have made my brief submissions. I should like to express my appreciation to you and to the Council. I do not suppose I have succeeded in boiling down *Anna Karenina* to ten pages, but I have tried to counter—I will not say the arguments - but the impact of the stones thrown at us at the last moment, although there was plenty of time to do so on some other occasion.

I wish to say here and now that we are as anxious as anybody that there should be no breach of the peace—of international peace and security—in our area, because our people would suffer most by it. We are as much concerned about international peace and security as any other Member of the United Nations. Even those who do not agree with us, I hope, would not challenge that.

Secondly, I wish to say that, when the Security Council is asking us for direct talks on the one hand, and also referring to the question of not changing the situation by force, I wish the following to be taken into account: On behalf of the Government of India—not only now but on all the occasions when we have met—we have said that, irrespective of our legal, moral, political and equitable claims, or any other rights we may have, it is not the intention of the Government of India to change or redress the wrongs against us by taking the initiative through the use of force.

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We were not asked to make this statement: we volunteered it. What is more and must be obvious to all, despite the fact that no part of the agreement has been implemented or honoured, the cease fire is still being observed.

In answer to our challenge to the attitude of the Government of Pakistan, and compelled by our peaceful declarations Pakistan, through Sir Muhammad Zafrulla Khan the other day said something somewhat—but only somewhat - similar. His statement goes on to say in effect: "Of course, if people come and invade the country, we cannot be held responsible." So one statement (ours) is unqualified and unreserved: in spite of our experiences over the last ten years, in spite of our 5,800 miles of frontier with Pakistan, in spite of our experiences all along our frontier with Pakistan, we have said we shall not take the initiative in the use of force. And I go further and say: we shall not even succumb to small acts of provocation, even though we may be logically justified in retaliating in the face of what is continually happening. We can take some of it, but if we should really be faced with an invasion of our country. I am sure there is no one around this table who would say that we are to submit to further aggression.

With regard to the "guarantee" of which Sir Muhammad spoke, as I have already said, however, it should not be forgotten that this comes after the first statement a few days previously threatening us with war. He has said that they would not seek to bring about a change in the situation except by peaceful methods—that Pakistan would always have recourse to peaceful methods for a settlement. But he took care to say that he was "bound to warn the Security Council that the situation may not always continue to remain passive. Not that the Government itself will do something to convert it into a situation of tension, but tension might arise. That is not something which anybody should raise his eyebrows over. How can it happen? It has happened. Governments are upset, new Governments take their place and new Governments can change policies. People get out of hand. There is nothing extraordinary in what I have mentioned to the Council. I have

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merely stressed that there is a live dispute..." [1010th meeting, para. 65]. There are likely to be changes in government, more so in our country where there are elections, than anywhere else, yet we have not made any reservations. This, therefore, is a very qualified statement compared to ours.

Finally, we are two Members of the United Nations, and, as Sir Patrick would wish to stress, also member States of the Commonwealth. There is no reason why we should not talk to each other: we have talked to each other on a number of issues. But it is one thing for us to initiate talks in that way, and something else to hold talks under some mandate of the Security Council, with its concomitant implication of a report back, and the same kind of controversy going on.

What I really want to point out is this: that during this year my Prime Minister, directly, in his own person, and through our respective representatives, has made at least two efforts to initiate this, and each on them has been turned down. Yet now the Security Council turns around and says that the "two parties" should get together, and so on. I told my friend from Ghana the other day that I understand the desire for conciliation and peace. However, a different approach should be adopted towards those who do some things and towards those who do not. While this does not mean that you should not urge the holding of talks in that way, the fact has to be taken into account that the fault is not on our side.

I shall therefore conclude these observations by saying that the Government of India will continue to pursue the path of conciliation and meantenance of the articles of the Constitution of the Union and of all that we are legally entitled to, refraining from the use of force on our initiative. But if, on account of changes that are taking place and that I read about to you a while ago, a condition should arise involving tribal raids on the territory, we shall take whatever police or military steps are required to meet them. When such a situation arises, we shall meet them as we have tried to meet them in the past. Equally, if there are promoted any alliances

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involving any part of sovereign India, though under the illegal occupation of any other country—that is, Pakistan - then a new situation arises.

There is a great deal of loose talk about doing this or that or the other. The only good thing that has emerged from all the deliberations in this Council over the years, as well as from our efforts and theirs, is the willy-nilly cease-fire line. In spite of all provocation, I say, in all conscience - I know something about this—in spite of all provocation, we have not allowed war to break out. I hope the Security Council, in spite of all the other extraneous circumstances that may condition the thinking of some of its members, whatever side they may belong to, will take into account the fact that, for us, this is a question of great and vital importance on which is centred the unity of India, the secular character of our State, and, what is more, the internal peace of the country, where there is a population of so-called minorities numbering nearly a hundred million, where very large economic and social experiments—if you like to call them that—are taking place, sometimes shaking the out of date foundations of a time-worn society.

If it is your desire to see progress take place, that cannot be achieved merely by passing resolutions which have no meaning, which cannot apply in the present circumstances, and which would be used by Pakistan only in order to prove to their people that "we have big people outside to assist us and therefore you can do what you really want to do"—that is, attack India, provoke her and be intransigent.

It is not our desire to create more trouble in the world than there already is. But at the same time, the Council should not mistake our desire to go on adopting a calm and patient approach in this matter for an attitude of weakness or subservience or a willingness to surrender our sovereignty under pressure. We shall never negotiate our sovereignty ; we shall never surrender our sovereignty. But we shall make a very peaceful effort to prevent the situation from developing into one that would threaten the peace of the world, whereby it would

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threaten the peace of India as well. The Union of India, its integrity and progress, is a matter of vital concern to us. We are often told by our friends who have our well-being at heart of their great concern for us. Do they really mean that? If they do, they will bear this mind.

I thank you and the members of the Council for your kindness and patience.

191. *Text of the speech made by Mr. Bhutto (Pakistan) in the Security Council meeting No. 1087 held on 3 February 1964.*

The Government of Pakistan has requested this meeting of the Security Council in order to draw attention to the serious deterioration in the relations between Pakistan and India and to the far-reaching and incalculable consequences of this situation if it is not improved. Considering that one-sixth of the human race is involved, we cannot continue in this way without, in the end, inviting an eruption which will be catastrophic to both.

When we requested this meeting, the Permanent Representative of India is reported to have said at a press conference that "all that can come out"—presumably referring to this meeting—"is a little more mud-throwing". Whether this remark anticipated his Government's attitude, I do not know. But if it came from any other quarter, this remark would strike me as either flippant or extremely callous. No, the stakes are too high, the issues too vital, the number of people involved too great for us to seek through "mud-throwing" the resolution of a dispute that carries the seeds of a major international upheaval. It is our contention that justice and not "mud-throwing" will ultimately resolve this issue, and we are here to place before you the justice of our complaint.

We have come to this distinguished body to obtain its assistance in an impartial examination of the existing situation and to urge upon it the incontestably vital necessity of remedying it—not exclusively in the interest of the people of

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Pakistan and India, but also in the larger interest of world peace, stability and prosperity.

The situation to which I refer was brought to the attention of the Security Council in my letter of 16 January 1964 [S/5517]. I am sure that the members of the Security Council have informed themselves of what has recently happened in Kashmir and in our two countries and the heavy toll these events have taken in human lives and property, the suffering they have caused, the bitterness they have engendered, the great scars of hate they have reopened. Accounts of the rioting and the consequent uprooting and displacement of large populations bring an ugly and shameful reminder of those unbelievably tragic events which occurred in the two countries in 1947. Nearly seventeen years have passed since then. Is there to be no end to this madness?

For my part I must place on record my Government's deepest anguish at the occurrence of these recent tragic events, whether they happened in India or in Pakistan. In bringing these events to the attention of the Security Council, it is not my intention to present a charge sheet against anyone. No purpose would be served by that. Our endeavour should be to determine the root cause of these tides of violence and to see what it is that makes Pakistan and India such uneasy neighbours and so bedevils their relations. It is in this spirit that Pakistan comes once again before the Security Council to plead the caues of the people of Jammu and Kashmir at the bar of the world Organization.

The Government and people of Pakistan are totally committed to the liberation of their Kashmiri brethren. They will not tire; neither will they falter in the long and bitter struggle until the right of self-determination, as pledged to them in the resolutions of the Security Council and the United Nations Commission for India and Pakistan, has been implemented.

It is our firm belief that in waging this peaceful struggle, we are striving to uphold the high purposes and principles

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enshrined in the Charter of the United Nations—to avert the danger to international peace in Asia and the world and to promote respect for human rights. At this moment, both stand in peril.

As set forth in my letter of 16 January, addressed to you, Mr. President, the reasons for my Government's request for an urgent meeting of the Security Council, briefly, are as follows. An extremely tense situation has arisen in Kashmir and throughout Pakistan, and relations between my country and India have become strained over the Government of India's policies toward the State of Jammu and Kashmir and more specifically its recently declared intention to "integrate" the State of Jammu and Kashmir with the Indian Union. India is doing this in open violation of its own pledges to the Security Council and in disregard of the rights of the people of the State. As a reaction to Indian policies, the long-suffering people have once again risen in what has been described by foreign observers as "open rebellion against the Bakshi Government and India itself".

This rebellion continues. Despite the intensification of measures of terror and repression by Indian occupation authorities in the State, the brave people Kashmir are determined to continue their struggle against Indian rule until liberation is won.

A wall of steel separates Indian-occupied Kashmir from the outside world. India is trying desperately to conceal what is happening there under a massive blanket of censorship. But enough leaks through to show that India's colonial hold over Kashmir is disintegrating.

In my letter, I have quoted excerpts from the dispatches of impartial foreign correspondents to give some indication to the Security Council and the world of the upheaval that has taken place inside Indian-occupied Jammu and Kashmir during the last few weeks. It has paralysed the puppet Government of Shamsuddin and the Indian occupation authorities. These

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dispatches show that the massive demonstrations and the paralysing general strike in Kashmir are not only an expression of the resentment of a long-oppressed people against the out rage perpetrated in the Hazratbal shrine against their deepest religious sentiments; they are an expression also of their indignation against continued domination. As *The Economist* of London, in its issue of 4 January points out, "The theft of the holy relic was spark to tinder."

The "incredible drama of religious passions and political rebellion" of the people of Jammu and Kashmir against Indian rule—as a foreign observer puts it—has not ended as the result of the proclamation of the alleged recovery of the holy relic and the intensification by India of repressive measures. In an eye-witness account dated 19 January of the happenings of the past few weeks in Indian-occupied Jammu and Kashmir, the correspondent of *The Evening Star* (Washington), the only foreign reporter to visit the area during the recent uprising, stated as follows:

> "For two weeks I was the only outside witness in Kashmir to an incredible drama of religious passions and political rebellion . for the last eight days Srinagar was cut off from the outside world by landslides, snowstorms and tight press censorship. When I left Srinagar on Monday, the general strike that has paralysed Kashmir's economy was in its eighteenth day, though stores had opened for half days last week allowing a slight resumption of business.
>
> "The successor Government of 'Premier' Shamsuddin, a long time Bakshi henchman, has virtually ceased to function. For three weeks no Government or ruling National Conference party official dared to appear before the public. Instead they remained indoors guarded by police with fixed bayonets.
>
> "On 5 January the week of growing demonstrations was climaxed when 300,000 Muslims gathered in Srinagar's

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Red Square, where Mr. Nehru promised Kashmiris self-determination fourteen years ago. On 7 January Indian army troops supported by rifle-carrying police occupied Srinagar's streets...As the troops patrolled Srinagar, government buildings were lit up and fireworks exploded in a bizarre travesty of public celebrations. The sullen and angry population listened to All-India Radio broadcasting patently false reports of widespread rejoicing and public speeches by government leaders.

"During the past fourteen days hundreds of Kashmiris have rushed up to me in Srinagar's streets begging me to tell their story to the world. Their story is that they are desperately unhappy after decades of rule by Bakshi's iron-fisted and corrupt police state. India is also blamed for installing and supporting a tyrannical regime which suppressed any dissent with police 'interrogation', secret informers and sadistic 'peace brigades'."

The correspondent then goes on to say :

"After two weeks it is impossible for an outsider, even one deeply sympathetic towards India, to believe that India can continue to hold Kashmir, much less fully integrate it into India without maintaining a police State, backed by army troops. India's fifteen-year attempt to win over Kashmir is ending in tragic failure. When humble peasants in Kashmir are asked 'Who is your leader and what do you want?', the answer invariably is, 'Sheikh Abdullah and a plebiscite'."

There were renewed disturbances on 25 and 26 January in Srinagar, Anantnag and Baramula, all major towns of the State. Black flags were hoisted and a general strike was observed despite police threats to have shops looted if they were found closed. The Indian police employed baton and tear-gas charges and, when these failed to quell the demonstrators, resorted to indiscriminate firing. A dispatch in the *Baltimore Sun* of 1 February reports that "estimates of the

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numbers of dead in these firings have raisen to about thirty".

The Indian authorities have prohibited even peaceful demonstrations and processions in major towns of the States. Arrests of Kashmir leaders continue, the latest being that of Maulana Mohammed Yasin, member of the People's Action Committee, Maulana Masoodi, its leader, has been ordered not to leave Srinagar. Kashmiri men and women crossing the seven bridges which connect the two parts of the city are required to do so with hands raised above their heads on the pretext that they may be carrying bombs to blow up the bridges.

According to the *Indian Express* of 1 February, complete "hartal"—that is general strike – was declared in Srinagar on 31 January when the leaders of the people publicily charged that "agents provocateurs" of the National Conference had, on Wednesday, attacked the inmates of a hospital, most of whom were victims of the week-end rioting. According to this dispatch, the general strike will be observed every Friday until the people's immediate demands are satisfied.

A dispatch in *The Times of India* of Delhi, of 28 January, is significant. It says :

> "The orderliness and discipline witnessed during the days of the hartals, processions and meetings were remarkable. There was hardly any case of disobedience to the order of the People's Action Committee. In Srinagar, the Gevernment appeared ineffective, and there was almost a parallel administration."

The dispatch goes on to say :

> "Three battalions of the Rajasthan, Punjab and Central Reserve Police had to be rushed to Kashmir, and the Indian Army authorities were requested to help in taking up guard duties at strategic points."

According to a dispatch in *The Sunday Star* (Washington)

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of 19 January, India's Minister of Home Affairs "warned that future demonstration would be put down with a heavy hand". This is to be read with a Reuters dispatch in *The Washington Post* of 5 January, according to which a mass meeting in Srinagar "passed a resolution charging that recent incidents were an attempt to incite Kashmir Muslims so that, if they protested, India would have another excuse to suppress the freedom movement".

The fear expressed by the people of Kashmir is now confirmed by the news reported in the *Baltimore Sun* of 1 February, that "the Indian Army rushed reinforcements to riot-torn Srinagar". The dispatch adds that "mobs shouting anti-Government slogans, marched through Srinagar and drew fierce police reprisals". The Indian Army has also been called out to assist the police in suppressing the people.

This dispatch from Delhi mentions "private admission that additional military strength is needed to keep internal discipline in Kashmir". The Minister of the Indian Government, Mr. Lal Bahadur Shastri, who visited Kashmir, as reported by *The Hindustan Times*, of Delhi of 31 January, "drove through almost desolate streets". A Hindu leader of Jammu, Mr. Premnath Dogra, is reported to have sent telegrams to the President of India complaining of "mass suppression".

The background of these recent happenings in Kashmir is explained by *The Christian Science Monitor* of 22 January as follows :

> "Since last year, tension in that part of the territory administered by India has grown with the hitherto quiescent Muslim majority apprehensive about moves to integrate Kashmir more closely with India."

The upheaval in the State has gathered further political momentum. The target of the mass movement is the regime of India's puppets and quislings and the whole National Conference, which is India's political prop in the State. The

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truth is that the people are no longer prepared to tolerated India's hold over the State which began when it marched into Kashmir in October 1947.

The situation in Kashmir is exemplified by the imprisonment of Sheikh Abdullah since August 1953. The Security Council will recall that when the Kashmir case was first brought before the Council, India justified the despotic Maharajah's accession on the ground that it had been supported by the "most popular" leader of Kashmir, Sheikh Abdullah. Sheikh Abdullah has been described by the Prime Minister of India, Pandit Nehru, as "the lion of Kashmir, beloved of the people in the remotest valleys of Kashmir" around whose personality "numerous legends and popular songs have grown". Mr. Nehru also has paid tributes to Sheikh Abdullah's "strength and vision which have entered him to Muslims, Hindus and Sikhs in Kashmir". Mr. Nehru has called him "the biggest and most popular leader in Kashmir" and "a brave man who has led his people through weal and woe".

It was this same leader who was arrested in 1953, at the behest of Mr. Nehru himself and who has since then, with one brief interval of three months, remained incarcerated. For five years from 1953 to 1958 he was held without charge and trial. In October 1958, he was brought before an Indian court for a mock trial, which is still going on.

The prosecution has filed a list of 322 witnesses, of which only 81 have been examined during the last five years. I repeat, out of a list of 322 witnesses, only 81 have been examined during the last five years. The end of the trial is nowhere in sight. The judicial farce, staged on trumped-up charges, must for ever remain a block on the administration of justice in India. The occasion of Sheikh Abdullah's arrest in August 1953 provided the Indian military with the opportunity to resort to indiscriminate shooting of protesting Kashmiris Over a thousand men, women and children were mown down. In Sheikh Abdullah's own words, the people of Kashmir "were

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given a blood bath unparalleled in the annals of Kashmir's history".

The traumatic experience of the people of Jammu and Kashmir under Indian rule moved Sheikh Abdullah to write recently to the President of India from goal, calling upon him to revise Indian policy with regard to Jammu and Kashmir. May I be permitted to quote from this letter :

> "During the last three centuries, though Kashmir witnessed long periods of misrule and lawlessness, never before has such a tragedy befallen the people and no one has ever had the audacity to touch the sacred relic, much less conceive the profane idea of its removal from the shrine. The present tragedy is the greatest ever blow in this Islamic centre known to history."

The Sheikh continues :

> "It is our considered view that this sacrifice is not an isolated incident unconnected with the happenings in the recent past in Kashmir. Of late, Kashmir has been going through a process of dehumanization. Respect for moral and spiritual values is cast to the winds, without the slighest qualms of conscience. This process was actually, so to say, initiated in August 1953, when the unashamed murder of democracy was committed in Kashmir. Thereafter, flagrant disregard of moral values was publicly demonstrated with the sanction and backing of the rulers of Kashmir. Scant respect was shown to law and justice, and common man's life and honour were at the mercy of wanton hooliganism. No attempt was made to arrest the process of degradation. On the contrary, 'crores' "—that is millions—" of rupees of the Indian Exchequer have largely been utilized to corrupt the people of Kashmir and almost kill their very soul, so as to 'drug them away' from any possible resistance against the onslaught of their basic human rights.

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> "The press, sacrilege would tragically complete the process of disintegration of the political, moral and spiritual life of the people of Kashmir who could then be dealt with as dumb, driven cattle."

The Sheikh concludes with the following appeal to the President of India :

> "In this connexion I would draw your attention to the reported indiscriminate arrests recently effected in the valley as also to the use of force which has taken the toll of some valuable human lives. You can appreciate the depth of sorrow and anguish in the minds of Kashmiris, and if even expression of such anguish is gagged, it may lead to grave consequences. It is time that we realize that bullets and 'lathi' "—baton—" charges and indiscriminate arrests do not help in easing such situations. An early action in the direction of revising the Kashmir policy is equally important, to which I have made a reference earlier. It is the root cause of the evils, which has culminated in the present tragedy."

That is a part of the letter written by Sheikh Abdullah recently from gaol to the President of India.

Despite India's policy—according to Sheikh Abdullah—of "dehumanization", the flame of freedom has continued to burn ever brighter in the hearts of the people of Jammu and Kashmir I recall the statement Sheikh Abdullah made in 1961 in the course of his farcical trial by an Indian court. I quote :

> "It is a small matter as to what happens to me. But it is no small matter that the people of Jammu and Kashmir suffered poverty, humiliation and degradation. It has been no small matter what they have endured for more than a decade and what they are enduring now. In fact, the State has become a vast prison camp Hundreds of Kashmiris have suffered incarceration for years since 9 August 1953, under these lawless laws ; many were shot

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by the army and the police ; hundreds were mained and disabled for life ; hundreds again were involved in fictitious criminal cases in order to silence their voices ..

"These very events have demonstrated the justice of the demand for the immediate implementation of the pledge of the plebiscite given to the people of Kashmir by India, Pakistan and the United Nations."

He concluded with these memorable words :

"My voice may be stifled behind the prison walls but it will continue to echo and ring for all times to come. It can never be stopped. It is the voice of numan conscience."

Sheikh Abdullah's voice is only an articulation of the feelings in the hearts of the millions of Kashmiris who have again risen in a mighty protest against Indian occupation and domination.

Even Bakshi Ghulam Mohammed, who helped to put him in prison and, under the protection of Indian bayonets, usurped the Government of the State, has been compelled to admit the failure of India's policy in Kashmir to crush the spirit of the people. According to the Press Trust of India, an Indian news agency, Bakshi Ghulam Mohammed told reporters on his arival in New Delhi from Srinagar on 17 January :

"There are three slogans being raised in Kashmir now ; Firstly, an inquiry should be held into the events of 1953, which led to the arrest of Sheikh Abdullah ; secondly, Sheikh Abdullah should be released ; and thirdly, the demand for the plebiscite should be conceded."

When called to order by the Indian authorities for making such a damaging admission, Bakshi Ghulam Mohammed obediently issued a "clarification" that "what he had exactly said was that some disgruntled elements, who were opposed to the regime had raised these slogans. The disgruntled elements,

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who were opposed to the regime", let it be noted, were, in the words of the correspondent of *The Evening Star* (Washington), "virtually the entire population of this Himalayan-rimmed capital of Srinagar" who "abandoned their homes to spend the daylight hours marching through the cobbled streets and demanding in enraged voices that their holy relic be returned to its shrine".

It is this surging mass of humanity which shouted demands "that Sheikh Abdullah, Kashmir's popular former Prime Minister, be released after a decade of imprisonment by India" The "disgruntled elements" are the people of Srinagar, who, according to the same correspondent, grimly sat for hours amidst falling sleet to express their bitter resentment against "India's recent moves to integrate Kashmir fully in the Indian Union".

These recent moves that precipitated a situation in which, in the words of *The Economist*, "The theft of the holy relic was spark to tinder", have been set forth in my letter of 16 January to you, Mr. President.

The sinister design of the Government of India to obliterate the special status of the State of Jammu and Kashmir was foreshadowed on *3 October* 1963 by Bakshi Ghulam Mohammed, the then puppet "Prime Minister" of Indian-occupied Jammu and Kashmir. He announced that "a directive had been issued to bring Kashmir closer to the rest of India", and that, "as a first step", it had been decided to change the designations of "Sadar-i-Riyasat" to "Governor" and "Prime Minister" of the State to "Chief Minister", to bring the State in line with the provinces of India. He added that the necessary "constitutional" formalities to give effect to this change would be carried out by the State's Legislative Assembly when it meets in March 1964.

The Government of Pakistan protested at once to the Security Council through its Permanent Representative. As statd in his letter of 9 October 1963 the proposed step involved yet another breach of India's commitment to the principles of the United Nations Commission for India and Pakistan's resolu-

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tions of 13 August 1948 and 5 January 1949 in reply to that letter the Permanent Representative of India, in his communication of 12 November 1963 made the outrageous claim that Jammu and Kashmir is a constituent State of the Indian Union and therefore Indian territory.

Soon afterwards Bakshi Ghulam Mohammed was replaced by his own nominee, Mr. Shamsuddin, as the new puppet "Prime Minister" of Indian-occupied Jammu and Kashmir. One of the first acts of that hitherto obscure figure was to install in office, under orders from Delhi, a Cabinet in which as many as seven out of twelve Ministers and deputy Ministers belong to the minority community, even though the population of the State is overwhelmingly Muslim. Shamsuddin then proceeded to dismiss over 100 officers of the State Government, who were to be replaced by, as he put it, "persons with a more secular and nationalistic outlook". Thus, at one stroke, he purged the State administration of officers whose only shortcoming was that they were, perhaps, in some small measure psychologically and emotionally resistant to India's policies in respect of their home land.

Subsequently, on 27 November 1963, the Indian Minister of Home Affairs announced in Indian Parliament the following measures to "integrate" the State with India:

> (1) An order of the President under Article 370 of the (Indian) Constitution was issued on 25 September 1963, integrating the State's legal and medical professions with those of India;
>
> (2) A similar proposal in respect of welfare of labour in the coal-mining industry was under consideration;
>
> (3) Representatives of Jammu and Kashmir in the Lok Sabha would be chosen by direct election as in the Indian provinces. Effect will be given to this after the termination of the present emergency;
>
> (4) The Sadar-i-Riyasat and the Prime Minister of Jammu

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and Kashmir would be designated as Governor and Chief Minister respectively. Legislation to give effect to the proposal would be taken up during the next session of the State Legislature.

Mr. Nanda continued – and I quote:

"(5) Article 370 of the Constitution occurs in Part XXI of the Constitution which deals with temporary and transitional procedures. Since this Article was incorporated in the Constitution many changes have been made which bring the State of Jammu and Kashmir in line with the rest of India. The State is fully integrated to the Union of India. Government are of opinion that they should not take any initiative now for the complete repeal of Article 370. This will, no doubt, be brought about by further changes in consultation with the Government and Legislative Assembly of Jammu and Kashmir. This process has continued in the last few years and may be allowed to continue in the same way."

The Indian Prime Minister, Mr. Jawaharlal Nehru, endorsed this statement the same day. He went on to explain that article 370 of the Indian Canstitution would be subject to a process of "gradual erosion."

The Government of Pakistan protested to the Government of India against these unlawful and outrageous measures. In a note handed to the Indian High Commissioner to Pakistan on 14 December 1963 the Government of Pakistan pointed out that the contemplated measures were deliberately aimed at destroying the basis of agreement on the State of Jammu and Kashmir as embodied in the resolutions of the United Nations Commission for India and Pakistan of 13 August 1948 and 5 January 1949; they also violated the resolutions of the Security Council of 30 March 1951 and 24 January 1957. The Government of Pakistan made it clear to the Government of India that in view of these resolutions whatever measures the Government of India had taken or might take, whether legislative or adminis-

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trative could have no legal effect whatsoever since such measures contravened the pre-existing international legal obligations that India had accepted in respect of the State of Jammu and Kashmir. Those obligations cannot be negatived unilaterally by India through any device, however camouflaged. This protest note also made it clear that all Indian actions of this nature, already taken or contemplated, were illegal and *ultra vires* because of the provisions of the resolutions of the Untted Nations Commission for India and Pakistan, to which India is a party, that the future of the State of Jammu and Kashmir can be determined only by the people of Kashmir themselves through a free and impartial plebiscite conducted under United Nations auspices.

Furthermore, in a second letter addressed by the Pakistan Permanent Representative to the President of the Security Council on 3 January 1964 the attention of the Security Council was invited to the above-quoted statements of the Minister of Home Affairs and the Prime Minister of India. It was pointed out in the letter that the steps contemplated by the Government of India were patently designed to consolidate India's hold over the bulk of Jammu and Kashmir, to demoralize its people and to interpose further obstacles in the establishment of conditions for the exercise of their free choice in regard to their future, and that, therefore, they constituted a defiance of the Security Council and the principles of the United Nations Charter.

The Government of India, I regret to state, rejected the protest of the Government of Pakistan and termed it "an unwarranted interference in the internal affairs of India".

May I remind the representative of India that Pakistan has never admitted and will never recognize India's false claim to the territory of Jammu and Kashmir in disregard of the right of self- determination of the people of the State, as pledged to them in the resolutions of the Security Council and United Nations Commission for India and Pakistan.

It is perhaps necessary here to recapitulate, briefly, the

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background against which the integration measures of the Government of India should be viewed. I need not now recall the story of the circumstances in which India procured the "accession" of the Maharajah of Jammu and Kashmir. The Security Council is familiar with that history. Suffice it to say that the genesis of the dispute is that India obtained the signature of the despotic Maharajah on an instrument of accession at a time when the people of Jammu and Kashmir had risen in rebellion against the Maharajah and ousted his authority from the State. But, apart from the fact that this accession lacked a legal sanction *ab initio*, how did the Government of India itself represent this accession to the Government of Pakistan or to the United Nations ?

According to their statements, the so-called accession was, first, conditional upon the results of a plebiscite among the people of Jammu and Kashmir to be held under international auspices, which would decide whether that State should accede to India or to Pakistan, and, second, it was limited only to the three subjects of defence, communications and foreign affairs. There are innumerable statements to this effect made by the representatives of India from time to time. I shall here quote only three. Immediately after the so-called accession by the Maharajah, the Prime Minister of India, informing Pakistan of it, said in his telegram of 27 October 1947 addressed to the Prime Minister of Pakistan :

> "I should like to make it clear that the question of aiding Kashmir in this emergency is not designed in any way to influence the State to accede to India. Our view, which we have repeatedly made public, is that the question of accession in any territory or State must be decided in accordance with the wishes of the people, and we adhere to this view."

The members of the Security Council will note the words : "Is not designed in any way to influence the State to accede to India".

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When the Government of India brough the question to the Security Council in 1948, the representative of India said :

> "We desire only to see peace restored in Kashmir and to ensure that the people of Kashmir are left free to decide in an orderly and peaceful manner the furture of their State. We have no further interest, and we have agreed that a plebiscite in Kashmir might take place under international auspices after peace and order have been established." [227th meeting.]

Members of the Security Council will note the words : "we have no further interest". Later, the represntative of India reaffirmed his Government's position thus :

> "The Indian Government was careful, even though the came from both, to stipulate that it was accepting the accession only on the condition that later, when peace had been restored, the expression of the popular will should be ascertained in a proper manner. It was on that condition, and that condition alone, that the Indian Government accepted accession..." [234th meeting.]

Members of the Security Council will note, again, the words : "It was on that condition and that condition alone, that the Indian Government accepted accession".

These statements show that India's intervention in Jammu and Kashmir, according to its own declaration, was not intended to make the accession final and that a plebiscite had to be held in Kashmir to decide its future. It might be pertinent to refer here to the summation made by the President of the Security Council at that time. He said :

> "...the documents now at our disposal show agreement between the parties on the three following points :
>
> "1. The question as to whether the State of Jammu and Kashmir will accede to India or to Pakistan shall be decided by a plebiscite :

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"2. This plebiscite must be conducted under conditions which ensure complete impartiality ;

"3. The plebiscite will therefore be held under the aegis of the United Nations.

"The terms in which the three ideas I have just mentioned are expressed and the consequences to be deduced from them may be matters for discussion, but I think I can say that the three ideas are not themselves disputed between the parties." [236th meeting.]

I believe that these references—and it is only to avoid undue length that I do not add the many more which are on record—are enough to indicate the position taken by the Government of India before the Security Council, according to which the principle that Jammu and Kashmir would decide its accession by a plebiscite was undisputed, as noted by the President of the Security Council. It was on the basis of this agreement between India and Pakistan, which transcended all other questions in dispute, that the two resolutions of the United Nations Commission for India and Pakistan were accepted by the parties. If they mean anything, they mean that Jammu and Kashmir cannot become part of either India or Pakistan except as a result of a plebiscite conducted under the auspices of the United Nations.

In addition to affirming the provisional and conditional nature of the so-called accession, the representatives of India were at pains, at meeting of the Security Council, to explain that Jammu and Kashmir retained its autonomy within the Indian Union and that, in fact, India had very llmited jurisdiction over it. In fact, at one meeting, the representative of India conceded that the determinination of the future of Kashmir was a matter over which neither India nor Pakistan had any jurisdiction and that this point was common ground between the two countries. Even later, in 1951, Sir Benegal Rau, then India's representative, explained to the Council that the scope of Kashmir's autonomy was limited only by a few matters

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having been taken over by the Govarnment of the Indian Union.

This was the way in which India first represented its relationship to Jammu and Kashmir. It was supposed to be a relationship limited in scope and subject to a plebiscite. Then, in spite of these solemn declarations and agreements, on 27 October 1950 the so-called. "All – Jammu and Kashmir National Confercence adopted a resolution to convene a constituent assembly for the State to determine its "future shape and affiliation". The significance of this manoeuvre was all too plane : it meant that India was arranging, through the coterie sponsored by it in Kashmir, to bypass the United Nations, and to have the so-called accession rubber-stamped by a compliant agency. Pakistan protested and brought the situation to the attention of the Security Council.

After due deliberation, the Council adopted a resolution on 30 March 1951 whose preamble stated :

> "*Observing* that the Governments of India and Pakistan have accepted the provisions of the United Nations Commission for India and Pakistan resolutions of 13 August 1948 and 5 January 1949, and have reffirmed their desire that the future of the State of Jammu and Kashmir shall be decided through the democratic method of a free and impartial plebiscite, conducted under the auspices of the United Nations,
>
> "*Observing* that on 27 October 1950, the General Council of the 'All—Jammu and Kashmir National Conference' adopted a resolution recommending the convening of a constituent assembly for the purpose of determining the 'future shape and affiliation of the State of Jammu and Kashmir'; observing further from statements of responsible authorities that action is proposed to convence such a constituent assembly and that the area from which such a constituent assembly would be elected is only a part of the whole territory of Jammu and Kashmir.

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"*Reminding* the Governments and authorities concerned of the principle embodied in the Security Council resolutions of 21 April 1948, 3 June 1948 and 14 March 1950. and the United Nations Commission for India and Pakistan resolutions of 13 August 1948 and 5 January 1948, that the final disposition of the State of Jammu and Kashmir will be made in accordance with the will of the people expressed in the democratic method of a free and impartial plebiscite conducted under the auspices of the United Nations.

"*Affirming* that the convening of a constituent assembly recommended by the General Council of the 'All – Jammu and Kashmir National Conference' and any action that Assembly might attempt to take to determine the future shape and affiliation on the entire State or any part there of would not constitute a disposition of the State in accordance with the above principle.

During the debate preceding the adoption of this resolution, the Indian representative gave assurances to the Council that the proposed "constituent assembly" would not prejudice the issue before the Council or come in its way. This meant that the question of the accession was to be decided by a plebiscite and India was bound to that commitment. The representative of India said before the Security Council :

" Accordingly, provision was made in the Indian Constitution for a constitution assembly for setting the details of the Kashmir constitution. Will that assembly decide the question of accession ? My Government's views is that while the constituent assembly may, if it so desires express an opinion on this question, it can take no decision on it.', [536th meeting, para. 23.]

"Some members of the Council appear to fear that in the process the Kashmir constituent assembly might express its opinion on the question of accession. The constituent assembly cannot be physically prevented from expressing

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its opinion on this question, if it so chooses. But this opinion will not bind my Government or prejudice the position of this Council." [538th meeting, para. 5.]

Despite these assurances, the Indian-sponsored authorities in Kashmir continued to declare that the assembly would decide the future affiliation of the State. When the Security Council met again on 29 May 1951, the President of the Council addressed a cablegram to the Foreign Ministers of India and Pakistan which said :

"Members of the Security Council, at its 548th meeting held on 29 May 1951, have heard with satisfaction the assurances of the representative of India that any constituent assembly that may be established in Srinagar is not intended to prejudice the issues before the Security Council, or to come in its way.

"On the other hand, the two communications to me as President of the Council from the representatives of Pakistan...contain repots which, if they are correet, indicate that steps are being taken by the Yuvaraja of Jammu and Kashmir to convoke a constituent assembly, one function of which, according to Sheikh Abdulah, would be a 'decision on the future shape and affiliation of Kashmir,"

"It is the sense of the Security Council that these reports, if correct, would involve procedures which are in conflict with the commitments of the parties to determine the future accession of the State by a fair and impartial plebiscite conducted under United Nations auspices.

"It seems appropriate to recall the request contained in the resolution of 30 March that the parties create and maintain 'an atmosphere favourable to the promotion of future negotiations and to refrain from any action likely to prejudice a just and peaceful settlement'. The Council trusts that the Government of India and Pakistan will do

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everything in their power to ensure that the authorities in Kashmir do not disregard the Council or act in a manner which would prejudice the determination of the future accession of the State in accordance with the procedures provided for in the resolutions of the Council and of the United Nations Commission for India and and Pakistan..." [548th meeting ; para. 89.]

Undeterred by the resolution of the Security Council and the admonition of its President, the so-called constituent assembly in Kashmir was convened through rigged elections as an instrument of India's design, first, to bypass the United Nations—that is, to avoid the plebiscite—and second, to extend the terms of the so-called accession—that is, to consolidate India's hold over Kashmir.

It was at this stage that Sheikh Abdulla proved to be an impediment in India's path began to stress that the accession was provisional and, even as such, was limited to a restricted number of subjects. It became an urgent necessity for the Government of India to eliminate him as a factor in the equation. This was done by his arrest and imprisonment. Bakshi Ghulam Mohammed, who was installed in his place, undertook to facilitate the steps which were contemplated by the Government of India for tightening its hold over Jammu and Kashmir. By an order promulgated in 1954, as amended from time to time, the Government of India has sought to reduce, step by step, the status of Jammu and Kashmir to a province of the Indian Union. The integration of the State's services with the rest of India and the extension of the jurisdiction of the Comptroller and the Auditor General and of the Election Commissioner and the Supreme Court to the State were some of the steps in this process. Each of these measures could be made to appear as minor and innocuous in nature, but taken together they compel the functioning of Jammu and Kashmir as a unit of the Indian Union.

These measures, all taken in violation of international agreement and in defiance of the Security Council's resolution

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which I have quoted, eventually led to the adoption, in November 1956, of a "constitution" by the "constituent assembly" in Kashmir. This "constitution" declared: "Kashmir is and shall be an integral part of the Union of India". Pakistan again brought the matter to the Security Council's attention, and on 24 January 1957 the Council adopted another resolution. which states:

> "*The Security Council,*
>
> "...
>
> "*Reminding* the Governments and authoritiers concerned of the principle embodied in its resolutions of 21 April 1948, 3 June 1948, 14 March 1950 and 30 March 1951, and the United Nations Commission for India Pakistan resolutions of 13 August 1948 and 5 January 1949, that the final disposition of the State of Jammu and Kashmir will be made in accordance with the will of the people expressed through the democratic method of a free and impartial plebiscite conducted under the auspices of the United Nation,
>
> "R*eaffirms* the affirmation in its resolution of 30 March 1951 and deciares that the convening of a constituent assembly as recommended by the General Council of the 'All-Jammu and Kashmir National Conference' and any action that Assembly may have taken or might attempt to take to determine the future shape and affiliation of the entire State or any part thereof, or action by parties concerned in support of any such action by the Assembly, would not constitute a disposition of the State in accordance with the above principle".
>
> "..."

Again, undeterred by this resolution and despite Pakistan's repeated protests, the Government of India has continued to adopt measures usurping increasing power and authority over the State of Jammu and Kashmir. The taking over of

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responsibility for the administration of highways, telegraphs, telephones, income tax, broadcasting and customs, the subordination of the Audit accounts Department of the State to the Auditor-General of India, the abolition of the customs barriers and the permit system for entry into and out of the State, the subjection of its economic plans to the authority of the Indian Planning Commission, the imposition of the authority of the Supreme Court of India over Kashmir, and the arrogation by the President of India of powers to promulgate laws in Jammu and Kashmir by executive fiat - all these, among other things, are links in the chain with which Jammu and Kashmir has been shackled. The latest measures show that India is determined to continue to flout the Security Council by reducing State to the level of a mere administrative unit of India.

It is manifest that the people of Indian-occupied Jammu and Kashmir would have none of this so-called "integration" with India. I have quoted sufficiently from foreign observers, from the moving letter of Sheikh Abdullah written from behind prison bars, and from the admission of Bakshi Ghulam Mohammed himself, to show that the "incredible drama of religious passions any kind of political association with India.

The people of Jammu and Kashmir demand self-determination. They demand a plebiscite. The indictment in Sheikh Abdullah's letter speaks for itself. He has stated that in his considered view the Hazratbal sacrilege :

> "... is not an isolated incident unconnected with the happenings in the recent past in Kashmir..." —a past in which tens of millions of rupees of the Indian Exchequer —"have largely been utilized to corrupt the people of Kashmir and almost killed their soul so as to 'drug them away' from any possible resistance against the onslaught on their basic human rights."

Shrikh Abdullah has demanded a revision of India's policy in regard to Jammu and Kashmir, a policy which, according to

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him "is the root cause of all the evils which have culminated in the present tragedy".

What is India's response ? Has the present up-heaval in Kashmir made it pause and reflecs ? is the Government of India prepared to pay heed to the anguished protest of the people of Indian-occupied Jammu and Kashmir against the denial of their inalienable rights ? There is no indication of any change of heart on India's part. It is determined to continue with its plans for the forcible annexation of the State. The Indian Home Minister's statement in the Indian Parliament on 27 November 1963 remains unretracted.

Indian newspapers are full of inspired reports that the panacea, the sovereign remedy for all the ills of Kashmir, is to complete the process of annexation at one stroke. To this end, India's agents in Kashmir have been summoned to Delhi to take counsel with the legal sophists of the Government of India. Officers of the Indian Government are being planted in key administrative and police posts in the State. The Indian bureaucracy is being superimposed on the Shamsuddin Government. These insidious measures, designed to tighten India's own grip on Kashmir, are presented to the world as steps to "strengthen" and "clean" the State administration.

This the grave situation that I have to bring the attention of the Security Council. Pakistan is directly concerned and involved in the fate of the people of Jammu and Kashmir. Pakistan is pledged to ensure that the people of Jammu and Kashmir exercise their right of self-determination as spelled out in the resolutions of the Security Council and the United Nations Commission for India and Pakistan. The Security Council has twice adopted resolutions reaffirming that the final disposition of the State of Jammu Kashmir will be made only in accordance with the will of the people exercised through the democratic method of a free and impartial plebiscite conducted under the auspices of the United Nations.

Consequently, the Government of Pakistan is honour bound, in duty and good faith, to request the Security Council

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to call upon India to cease and desist from any action contrary to that decision, to which India itself is a party. That decision must be urgently implemented. The situation inside Kashmir and in the India-Pakistan subcontinent demands it.

As stated in my letter of 16 January, India's iniquitous policies in Jammu and Kashmir have led to upheavals in that State. The present rebellion has further aggravated relations between Pakistan and India, and led to communal riots in the two countries. To the deep regret of my Government, the tension over the Hazratbal and Kashmir outrages and the subsequent regime of repression in indian-occupied Kashmir found expression in some regrettable incidents on 3 January against the Hindu authority in the Khulna and Jessore districts of East Pakistan. The disorder was promptly suppressed and normal life restored in the two districts.

Exaggerated reports of these incidents in East Pakistan were published in the Indian Press. Indian political leaders made inflammatory statements from the platform of the annual session of the ruling Congress Party of India at Bhubaneshwar. Within hours of those speeches, the existence of the Muslim minority in the city of Calcutta and in a number of other districts of the Indian State of West Bengal, was placed in dire jeopardy. Widespread acts of killing, arson and destruction of property took place. A large number of innocent men, women and children have been done to death. Over 75,000 rendered homeless and shelterless in Calcutta alone. More than 60,000 terror-stricken Muslim refugees have fled into East Pakistan for sanctuary.

Confronted with this human tragedy, the President of Pakistan made an appeal on 13 January to the people of Pakistan to maintain calm, emphasizing the supreme need for preserving communal peace despite the anxiety and provocation that the tragic events in West Bengal had caused them. The President of Pakistan also sent an urgent appeal to the President of India to take immediate and effective steps to restore order and peace in Calcutta and other areas of West Bengal, such as would create a sense of security in the minds of the Muslim

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minority and enable the Muslim refugees to return to their homes. He emphasized that this was in the larger interests of both India and Pakistan. He observed that he could not help feeling that :

> "In thus taking the law into their own hands, with a view to driving the Muslims out of West Bengal into East Pakistan, certain elements in the majority community in West Bengal may have been encouraged by the policy that the Government of India has been following over the last two years, despite our protests and appeals, to drive out Indian Muslims living in the districts bordering East Pakistan".

Nearly 100,000 Inidian Muslims had thus been pushed out into East Pakistan by the end of last December, prior to the latest communal disorders and disturbances. Since then, as stated earlier, over 50,000 more refugees have fled into East Pakistan as a result of these disturbances.

The Indian President's reply to this appeal was unhelpful. In a message to the President of Pakistan on 16 January [S/5522, annex I], he sought to put the entire blame for the killings and destrction in Calcutta and West Bengal on the Khulna incidents in East Pakistan. He went on to accuse the Pakistani leaders and the Pakistani Press of doing "everything to rouse communal passions to an uncontrollable pitch".

Refraining from engaging in a controversy over facts, the President of Pakistan replied :

> "It would, I think, be most unfortunately you and I should get involved in an exchange of recriminations. This would deflect attention from our real purpose.
>
> "This purpose is that the lives and property of a minority community must be fully protected, that communal peace must be maintained and that the minority community must not be looked upon as a hostage. By blaming and

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thus impliedly condoning communal killings and destruction in one country on similar instances in the other, we might unwittingly lend encouragement precisely to these evil forces which it is the Government's duty to curb." [S/5692, annex II.]

The President of Pakistan went on to say :

"What is really needed is that whatever steps are necessary should be most urgently taken to restore law and order and mete out deterrent punishment to the criminals who have been responsible for killing innocent men, women and children.

"We are faced with a grave human problem. It will not be solved by shutting our eyes to it, as for example, Mr. Nanda's statement that on 14 January absolute communal harmony prevailed in Calcutta. Nor can we solve this problem by blaming others for creating it. Let leaders in each country look into their own hearts and resolve to put their own house in order." [*Ibid.*]

In his message the Indian President made a suggestion that the President of Pakistan should join with him in an appeal to the peoples of the two countries to maintain communal peace and harmony. In reply, President Ayub Khan pointed out :

"As you know, I have already issued an appeal to my people. I took the earliest opportunity to do this. I do not see how a second appeal by me would have any greater effect. What is required is that stern measures be taken against those miscreants who are responsible for recent incidents"—in Dacca and Narayanganj, that is in Pakistan— "and to prevent trouble from spreading. This is what the Government of East Pakistan are doing with the full backing and support of my Government". [*Ibid.*]

In order to restore communal peace and harmony in

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East Pakistan, we had to resort to firing on our own people.

This reply rose above the level of controversy. It was filled with a human concern and compassion for the sudden and tragic fate that had over taken tens of thousand of innocent men, women and children for no fault other than that they belonged to a minority community. It is a matter of the deepest regret to my Government that the contagion of rioting in Calcutta and other parts of West Bengal spread subsequently to Dacca and Narayanganj and certain other districts in East Pakistan. However, the East Pakistan authorities, with the full support of the Government of Pakistan, took stern and deterrent measures to suppress the disorders and the situation has, I have the satisfaction to say refurned to normal.

Nevertheless, the communal situation in the affected areas of both countries remains tense and needs continued vigilance. It is the paramount duty of any civilized government to protect the basic human rights of all its citizens regardless of their faith and belief. The reason why I have referred to the recent communal riots in India and Pakistan is not to engage in an apportionment of praise or blame. It is axiomotic that the safety of all their peoples, regardless of faith or persuasion, is the responsibility of of the Government concerned.

The Indian case in regard to Kashmir is always presented with a great deal of rhetoric about the secular nature of the Indian State. The reality is that the denial of the right of self-determination to the people of Jammu and Kashmir is embittering the relations between India and Pakistan, a direct result of which is the poisoning of relations between Hindus and Muslims in the two countries. The denial of this basic right to the people of Jammu and Kashmir and the persistence of communal tension and unrest are part of the same deep-seated malady – the refusal by the Indian leadership to break with the unhappy past of this subcontinent, to accept the reality of Pakistan's existence and to live with it in friendship.

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We have always pleaded with our neighbour that we must finally settle the dispute over Kashmir if our peoples are to enjoy the blessings and benefits of peace. One now hears it said from the Indian side that this feeling of conflict between the two countries is due to something mysterious in the minds and hearts of our people, some primordial animus which can never be eradicated. Such statements are either counsels of despair or pretexts for evading a settlement of the major problem that has plagued the two countries since indepedace. When the Kashmir dispute was first brought before the Council, the representative of India said :

> "We hope to be able to convice the Security Council that once we have dealt with the Kashmir question, there will probably not be anything of substance which will divide India and Pakistan...". [230th meeting.]

We entirely agree. Bvt what has happened, in fact, is that the Kashmir dispute has been allowed to fester for sixteen years. The theft from Hazratbal was a spark to the power barrel. To quote from a dispatch to *The Observer* of London of 26 January :

> "It is not really surprising that the theft of the sacred hair of the Prophet Mohammed in a Srinagar mosque should have started the chain reaction that ended in the blood-bath of Calcutta".

The dispute has poisoned Pakistan-India relations, heightened tension between them to a grave pitch, and poses a serious threat to peace and security in south-east Asia. What is developing is a situation pregnant with manifold dangers which can be averted only if a just and honourable solution is urgently found. Thus alone can Pakistan-India relations be established on a good-neighbourly basis and a climate created in both countries wherein the minorities may live in peace and security.

When the Kashmir issue last came up before the Security Council in 1962, the stand of the Government of India was that

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the United Nations Commission for India and Pakistan resolutions of 13 August 1948 and 5 January 1949, calling for a plebiscite in Kashmir, could not be implemented because Pakistan, according to India, had not carried out its part of the obligations under those resolutions.

Pakistan's Permanent Representative then proposed to the Council [1100Sth meeting] that Pakistan would be agreeable to any method that may be suggested : (*a*) to determine the obligations of the parties under these resolutions ; (*b*) to determine what was holding up progress on their implementation ; (*c*) to determine whether either of the parties was in default with regard to the fulfilment of its obligations ; and (*d*) what was needed to be done by either side to move the matter forward towards implementation. The Permanent Representative of Pakistan further declared that if a determination of these questions disclosed that Pakistan was in default in any of these respects, the default would be rectified through the speediest method at the earliest possible moment, so that the the way may be opened towards full implementation of the resolutions. This was an undertaking that he submitted to the Security Council on behalf of the Government of Pakistan.

India refuses to submit its differences with Pakistan in regard to these matters either to mediation or to arbitration, limited merely to such questions of fact. In other words, India arrogates to itself the role of both the accusor and the judge. India's contention has been that the so-called accession of the State of Jammu and Kashmir to India is final and complete. In the Indian view, therefore, there is nothing that remains to be done in regard to Kashmir. Clearly this is not a view which Pakistan can or will ever accept. It is not a view that the Security Conncil can accept. Above all, this Indian attitude rules out any prospect of a settlement of this inflammable issue through peaceful means.

Indian spokesmen have claimed that since three elections have taken place to the Legislative Assembly in Kashmir, which has supported "the State's accession" to India, it is no longer

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necessary to hold a plebiscite to determine whether the people of Jammu and Kashmir wish their State to accede to India or to Pakistan.

Quite apart from the fact that elections to a legislature can never be the equivalent of a plebiscite on the specific issue of a accession, these elections were held to a so-called constituent assembly in its successor assemblies in Indian-occupied Kashmir. I have already referred to the assurance given by India, the solemen statements made before the Security Council and in correspondence between the Governments of India and Paistan, that this assembly would not decide the question of accession or come in the way of the Security Council. Even if these elections had been fair and free, therefore, they were not on India's own admission, capable of bringing about a resolution of the problem regarding the disposition of Jammu and Kashmir.

But the facts of the situation are that these elections were farcical, entirely farcical. In 1951, all of the 45 nominees of the National Conference – which is the clique in Kashmir sponsored by the Indian Government –for the 45 constituencies in the Vale of Kashmir and Ladakh were declared to have been returned unopposed; and no polling took place on the date fixed for the ballot. In 1957, only 8 out of the 45 seats for the Vale of Kashmir and Ladakh were contested and in these the opposition was a token opposition. *The Economist* of London, on 6 April 1957, described this as a "solemn farce". *The New York Times* of 8 March 1957 commented:

> "This is not an 'election' in any sense of the word. The term election means a choice. The Kashmiris have had none.
>
> "What happened is no credit to India, no reflection of sentiment among the Kashmiris and no contribution to a solution of this thorny problem."

In 1962. *The Times* of London of 5 February reported that "the field is just left clear for political supportes of India."

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Even a pro-Indian group, the Democratic National Conference, as reported in *The Statesman* of Delhi on 23 March 1962, said that "the whole election is false" *The Guradian* reported on 16 February 1962 that these elections would "once again provide no test of the popular will." It added that the opposition was being climinated by the permit and licence raj—meaning that those who opposed the governing party get no industrial licence or import permit—and there is peace brigade to deal with recalcitrants. *The Organizer* of New Delhi on 12 March 1962 described these elections as a "sordid scandal". *The Hindustan Times* of Delhi commented editorially, on 12 February 1962, that it was extraordinary that in 32 out of 42 constituencies, Bakshi Ghulam Mohammed had left no work for the Election Commissioner, and asked: "Is it that the policies of his Government are so universally accepted that we might as well replace in his domain the process of election by the process of acclamation?"

This, in brief, gives us a glimpse of the so-called elections in Kashmir which are alleged to have accorded popular consent to the annexation of the State by India. It is small surprise that an article in *The Hindustan Times* of Delhi of 8 Junary 1964 should have described the Indian-sponsored regime in Kashmir as "sustained by electoral fraud" and "so thoroughly exposed as being without popular allegiance". It is pertainent to quote here the view expressed by *The Guardian* of 21 December 1963.

> "It is widely assumed—even by many Indians – that in a plebiscite more Kashmiris would opt for Pakistan than for India; that is one reason why Mr. Nehru long ago withdrew his agreement to a plebiscite, and why elections in Kashmir, unlike those in the undisturbed parts of India, hardly have even the crudest appearance of being free and democratic".

This explosive issue will not be resolved by India claiming it to be a domestic affair. It will not be resolved by putting forward disingenuous arguments in support of a fictitious Indian

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claim to the State's territory. It will certainly not be resolved by shutting our eyes to its existence. On the other hand, the situation could conceivably grow worse, as indeed it has been growing worse over the years and in the last few weeks.

During the last Security Council meeting on this issue in 1962, the majority view, as expressed in the statements of the Council's members and in the draft resolution submitted, was that India and Pakistan should enter into bilateral negotiations to find a just and honourable settlement of this dispute.

In November 1962, through the good offices of the United States and the United Kingdom, the President of Pakistan and the Indian Prime Minister agreed to undertake bilateral talks to seek a solution of the Kashmir problem. I had the honour to represent the Government of Pakistan in those negotiations. They started in the last week of December 1962 and continued till May 1963. They ended in complete failure. The negotiations failed because of India's intransigent stand against any just and honourable settlement of the dispute and its refusal to move from its rigid position.

The Governments of the United States and the United Kingdom, which throughout the course of bilateral negotiations strove to encourage and assist both parties to reach an agreement, then offered their good offices in another form. They proposed that the two countries agree to the appointment of a mutually acceptable mediator to assist them in arriving at an early settlement of this dispute. While Pakistan was still engaged in seeking certain clarifications from the Governments of the United States and the United Kingdom on the mediation proposal, the Prime Minister of India effectively sabotaged it by a statement in the Indian Parliament on 13 August 1963.

This was followed on 3 October, as I have stated by the announcement of India's plans to proceed with the integration of the State of Jammu and Kashmir, first by the Bakshi Ghulam Mohammed Government and later by India's spokesmen, with the disastrous consequences that are taking place in Jammu and Kashmir at present.

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I would appeal to the members of the Security Council to undertake steps which would carry this dispute towards a speedy and peaceful solution.

The situation that I have described to the Security Council demonstrates beyond all doubt that the passage of time will not—and I repeat, will not—help to reconcile the people of Jammu and Kashmir to Indian occupation and domination. It must be borne in mind that unarmed as they are, muffled as their voices are by the barrier flung between them and their kith and kin in "azad" Kashmir and Pakistan, unrepresented as they are, consigned tragically to oblivion as they are, they are persisting in the eternal struggle of the oppressed peoples for freedom. Their struggle is heroic. All the more so because, in terms of brute force, the odds against them are exceptionally heavy. India has one soldier in Kashmir for every ten men. I wonder how in human justice, by all the considerations that govern the morality of nations, Pakistan can be expected to remain a spectator if the people of Kashmir continue to be suppressed by force.

Though sixteen years have passed without the agreement regarding Kashmir being carried out, there has never been any time when there has been any acquiescence on the part of Pakistan or the people of Kashmir in India's occupation of the major part of Kashmir. There has never been any time when we have abated or abandoned our rightful claim. There has never been any time when a search was not pending for a peaceful solution of the problem consistent with the basic principle agreed between the parties. And there has never been a time when the strain of the dispute in the entire India-Pakistan situation has shown any sign of being eased or when the tensions that it has caused have, relaxed.

I venture to submit here that if the doctrine of the passage of time resulting in an advantage to one party in an international dispute is upheld, then it would be just as well if we consider the Charter of the United Nations to have been abrogated. Certainly, no one must then demand the end of any

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colonial regime because there is no colonial regime which has not behind it the sanction of time much longer than that commanded by the Indian occupation of Kashmir. If the Security Council was exercised over Kashmir in 1948, why should it not be exercised over it in 1964? If it be said that the circumstances have changed, they have changed only in this respect that in 1948 the people of Kashmir were engaged in armed fighting against India in Kashmir, and in 1964 they have only recently risen in rebellion again. If this change is supposed to operate to the disadvantage of those who laid down their arms on the pledge given by the United Nations that their rights would be peacefully secured, is it not a virtual inducement to them to resume hostilities? Assuming that it is not the purpose of the Security Council or of any member to proffer such an inducement, how can the passage of time be considered as a ground for the continuance of India's possession of the greater part of Kashmir?

If this question is realistically faced, I am confident that the members of the Security Council will corceive that the issues involved here are the issues as the rights of the smaller States against their domincering neighbours and of the sanctity of international agreements. There is no conceivable situation where the passage of time will not operate to the advantage of the party that is stronger in physical force, though it may be weaker in human right and natural justice. The world has witnessed two global wars in this century which were fought ostensibly for the preservation of the rights of smaller States. If a precedent is now established in Kashmir which allows the rights and the claims of a smaller State to be overborne by a stronger party, aided by the passage of time, and an international agreement to be disregarded, then the principles of the Charter of the United Nations and of all other statements, like those issued recently by Chairman Khrushchev of the USSR and President Johnson of the United States, regarding the renunciation of force in the settlement of territorial disputes, lose their meaning.

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I have come before the Council earnestly to urge, in the name of my Government and, above all, in the name of humanity, that the Security Council take appropriate action to ensure that the Kashmir dispute moves rapidly towards an honourable and just solution in the interest of the well-being of the people of the India-Pakistan subcontinent and in the interest of peace in Asia. The people of Kashmir have unmistakably risen in open rebellion and, unless we refuse to hear their voice, we can no longer doubt that they are unreconciled to Indian occupation and domination, any passage of time notwithstanding. I am confident that the Council will consider it urgent to ensure that India refrain from aggravating the situation by proceeding with any measures to annex the State in violation of the international agreement and of the right of the people of Jammu and Kashmir to decide their future for themselves.

I said at the outset that one sixth of the human race is involved. To these people, most of whom live in deep and measureless poverty, the alleviation of their condition presents a challenge, the enormity of which has, perhaps, no precedent in human history. Both our countries are confronted with urgent and compelling problems. How utterly wrong and wasteful it is that we should dissipate our national energies and engage in conflict with one another.

We, the peoples of Pakistan and India, sought and won our freedom in order to fashion our lives with dignity and self-respect, free from privation and fear, to remove the sufferings that our peoples have endured since human memory can recall. After seventeen years where do we find ourselves? We find our horizons darkened by the clouds of conflict and hate we find ourselves facing the dark prospect of a fearful and a dreadful storm. Is it not a most dreadful prospect? Is it not a most lamentable situation? But it lies with us, with this distinguished body and with Pakistan and India, to change this course of events. It is within our power to find the means to live in peace provided there is a will to live in peace.

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Freedom can be delayed by oppression, but it cannot ultimately be denied. The course of history is relentlessly so set. And so I say that the people of Kashmir will one day be free. Whether this freedom will come through violence or upheaval, or whether it will come through peaceful means and civilized conduct, depends largely on the decisions this body makes and the respect we show for its decisions.

192. *Text of the speech made by Mr. Chagla (India) in the Security Council meeting No. 1088 held on 5 February 1964.*

The Security Council is perhaps the most important organ of the United Nations. Every Member State has a right to approach it. But they must approach it with a due sense of responsibility, it is not intended as a platform for propaganda against any Member State. Nor is it obviously meant for creating tensions in a world where there are already more than enough difficulties and problems. I propose to satisfy you that there was no justification whatsoever for Pakistan to have taken up the time of this Council Pakistan's application constitutes the culmination of the campaign of hatred that it has ceaselessly carried on against India. The basic principle of its international policy is opposition to India on every front and, as *The Times* of London recently observed, "The load-stone of every aspect of Pakistan's foreign policy is bad relations with India". Its approach to the Council is purely an agitational approach. Its desire is to use the forum of the Security Council to carry on its agitation against my Government and my country.

We sat at this Council table yesterday listening patiently to the statement of the Minister for External Affairs of Pakistan to find some reason for the convening of this meeting and into what its deliberations are likely to lead. I confess that after having heard the statement of the representative of Pakistan, my delegation and my Government continue to hold the view that there was no reason for convening the Security Council, because no new situation has arisen to aggravate the existing

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conditions in Jammu and Kashmir. Pakistan's application reads like a horror story. We are told that the Muslim majority in Kashmir is in great peril by India's attempt at so-called integration or annexation of Kashmir; that large Muslim crowds have been demonstrating against India and in favour of a plebiscite; that Kashmir is in "open rebellion"; that the Kashmiris are being crushed under the heel of India and that terrible things will happen there unless something is done immediately. I shall satisfy you that all this is a figment of a vivid imagination.

Pakistan has pretended to show a great solicitude for the Muslims living in India, and its Foreign Minister has stated that hundreds of thousands of Indian Muslims have been pushed out into East Pakistan. When Pakistan talks of the Muslim minority, it gives one the impression that we are dealing with a few thousands or a few hundred thousands of people in a large country tucked away in some far corner and surrounded by a large mass of Hindu population. Now let me inform the Council that the Muslims are not a minority in the ordinary sense of the term. They constitute 50 million of India's population. India is the third largest Muslim State in the world—the first being Indonesia and the second Pakistan. They are sons of the soil, they are Indian by race and they enjoy all the rights of citizenship. Every office is open to them, and in fact many of them hold the highest offices in the land. Our civilization is a synthesis of many diverse cultures and the Muslim contribution is one of the most significant. Ours is a secular State and an egalitarian society where everyone enjoys equal rights and equal opportunities and equal protection of the law. We have no official religion. Hindus, Muslims, Christians, Buddhists, Sikhs, Parsis and others have full-freedom of worship, and fundamental rights under the Constitution are guaranteed to every citizen. We have no first-class or second-class citizenship. Before the law everyone is equal.

Much of our differences with Pakistan are due to the fact that there is this basic difference between our policy and that of Pakistan. While we have based our State on secularism,

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which means that there is no established church and everyone is entitled to profess and practise his religion without let or hindrance from the State. Pakistan is a theocratic State. When the leaders of the Muslim League demanded a partition of the country, the demand was based on the two-nation theory. Their contention was that Hindus and Muslims were separate nations, and were each entitled to have a homeland of their own. We recognize India and Pakistan as two nations, but we have repudiated the two-nation theory based on religion and it is abhorrent to us. If Hindus and Muslims constitute two-nations, then the inevitable result must follow that the 50 million Muslims in India are aliens in their own homes. We refuse to subscribe to the theory that religion can be the sole basis of nationality. We believe in a multiracial, multicommunal and multilinguistic society, and according to us, peace and goodwill in this world depend upon the success of such a society. I am sure that this sentiment will strike a sympathetic chord in the hearts of many African countries which have recently achieved independence. Most of them have populations which practise different religions. The same is the case with many Middle East countries, and in the United States itself a brave attempt is being made to consolidate and integrate its different racial groups.

Is it not extraordinarily that while Pakistan is shouting itself hoarse as a self-appointed guardian of Indian Muslims, Muslim opinion in India has always strongly endorsed the policy of my Government? May I, with the President's permission, read three quotations from Muslim newspapers in India. They were written in Urdu, but I have the translations. The first is from the *Siasat-e-Jadid*, of Kanpur, dated 16 January, 1964, which states:

> "The Pakistani authorities and journalists make an exhibition of great sympathy for the Indian Muslim minority and bewail their plight through speeches and writings, without ever realizing that it is for their verbal and written intemperances and provocations that the Muslims have

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to suffer. Indian Muslims . . . want to tell these foolish friends frankly that they should for God's sake leave them alone."

The *Nai Duniya* of 21 January states:

"Pakistani newspapers, leaders and radio played up the theft of the holy hair in a manner so as to excite the feelings of the majority. If the newspapers, the radio and the leaders of Pakistan had not behaved in this irresponsible manner, the mischief-mongers of Khulna and Jessore would never have dared to attack the life and property of Hindus."

These two places are in East Pakistan. The third quotation is from the *Musalman* of Madras, of 18 January, which says that:

"The trouble which started in Kashmir following the theft of the sacred hair should have remained localized but it is to be regretted that Pakistani citizens thoughtlessly created disturbances over it and subjected the innocent non-Muslim minority there to tyranny. This led to Hindu-Muslim riots in Calcutta, and the innocent Mustim minority of Calcuttaa had to suffer."

One might ask oneself what does Pakistan seek to achieve by its anti-Indian crusade, its campaign of scurrilous abuse and hatred of India? Is it helping the Muslims of India, is exciting communal passions, fanning the flames of fanaticism and intolerance and is preaching "jehad"—holy war-helping the cause of Muslims in India? May I observe in passing that no war is holy and that every war is cruel, bloodthirsty and the cause of terrible suffering and distress. No, I do not think Pakistan is so unsophiticated as all that. It wants to see discord and turmoil in India, it wants India to be politically and economically weakened so that it can get an opportunity to continue further its present illegal occupation of a part of territory which by international law is as much a part of Indian territory as

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Bombay or Delhi is. It is already thereby playing the Chinese game of weakening India internally and undermining its defence against China. I wish to make it clear on behalf of my Government that nothing, and I repeat, nothing will induce any Government in India, whatever be its party affiliations, to sign the death warrant of the unity, integrity and solidarity of the country.

I said earlier that nothing has happened recently to justify Pakistan's approach to the Security Council. We are told in the letter addressed to the President of the Security Council dated 16 January 1964 [S/5517], that a grave situation had arisen in the State of Jammu and Kashmir and this was the direct consequence of the unlawful steps that the Government of India was continuing to take in order to destroy the special status of the State of Jammu and Kashmir, that this was a part of India's design to annex Jammu and Kashmir to India and that the Government of India was deliberately set on defying the Security Council and on integrating Jammu and Kashmir with the Indian Union. This is not a new complaint. A similar complaint was made by Pakistan in June 1949 following a decision of the Constituent Assembly of India to reserve four seats for the representatives of Jammu and Kashmir in the Indian Parliament. The United Nations Commission for India and Pakistan had then refused to take any action in the matter on the ground that it was difficult to oppose the measure of the Government of India on purely legal grounds. Similar complaints had been made by Pakistan every time some changes were made. In regard to the present complaint, it is relevant to point out that this had already been conveyed to the Security Council by the permanent representative of Pakistan in a letter dated 9 October 1963. India replied to this letter on 13 November 1963. The permanent representative of Pakistan addressed another letter on 5 January 1964 raising the same complaints. Nothing new has happened since then to justify the demand contained in the letter of the Foreign Minister of Pakistan of 16 January 1964 for an immediate meeting of the Security Council to consider the grave situation that has arisen in the State of Jammu and Kashmir.

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Let me deal, at some length, with this charge of Pakistan that we are trying to "annex" or "integrate" Kashmir into the Indian Union. It is beyond doubt that legally and constitutionally when the Ruler of Kashmir executed the Instrument of Accession to India and Lord Mountbatten, the then Governor-General of India, accepted the Instrument, the whole of Kashmir became an integral part of the Union of India. It is necessary to look at the political and constitutional position prevailing in the subcontinent of India on the eve of independence. There was British India over which the United Kingdom exercised complete sovereignty. There were also more than 560 princely States which were semi-independent and which were protected by the United Kingdom by a doctrine known as paramountcy. The meaning of this doctrine was that the King of England and Emperor of India was the paramount lord as far as these princes were concerned and, in return for the fealty pledged by them, the King-Emperor gave them protection.

When the Indian Independence Act of 1947 was passed by the British Parliament, British power was transferred to the people of India, as far as British India was concerned, and Britain also put an end to paramountcy, leaving it to the princes to arrive at such arrangements as they thought proper with the Government of India and Pakistan. But the present Government of India was the successor Government to the Government of the United Kingdom. Pakistan was a new State which came into existence. It was also provided that it was open to every princely State to accede either to India or to Pakistan. The law did not provide that the Instrument of Accession could be conditional. Once the accession was accepted either by the Governor-General of India or of Pakistan, the particular princely State became an integral part of one or the other of the two Dominions. It is significant to note that there was no provision for consulting the people of the princely State concerned. Nor was there any provision that the accession had to be ratified by ascertaining the wishes of the people of the acceding State. Leaving aside for a moment the question of Jammu and Kashmir, several princely States under this law acceded to India

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or Pakistan. It has never been suggested either by India or Pakistan that these accessions are, in any way, incomplete or require some action to be taken before they become conclusive. It is only in the case of Jammu and Kashmir that Pakistan has shown such laudable zeal in the sacred cause of democracy and self-determination.

It has also to be remembered that the partition of India was confined to British India and that in drawing the lines of the frontier, questions of Muslim majority provinces were taken into consideration only with regard to British India. There was no question whatsoever with regard to the religious complexion of the population of the princely States. The question whether one princely State should accede to India or Pakistan was left to the determination of the Rular of the State. Pakistan has often put forward a proposition that the State of Jammu and Kashmir, by reason of its large Muslim majority and of the fact that Pakistan came into existence as a Muslim State, should naturally form part of Pakistan. This is a wholly erroneous view of the legal and constitutional position.

The British Government had made it quite clear that the partition was only of British India and that this principle did not apply to those States, such as Kashmir and several hundred others, which were ruled by Indian princes. I quote from the British Government's announcement of 3 June 1947, which said :

> "His Majesty's Government wish to make it clear that the decisions announced above"—about partition—"relate only to British India and that their policy towards Indian States contained in the Cabinet Mission Memorandum of 12th May, 1946 remains unchanged."

The Cabinet Mission's memorandum reads, *inter alia*, as follows:

> '. . .His Majesty's Government will cease to exercise the power of paramountcy. This means that the rights of the of the States which flow from their relationship to the

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> Crown will no longer exist and that all the rights surrendered by the States to the paramount power will return to the States. Political arrangements between the States on the one side and the British Crown and British India on the other will thus be brought to an end. The void will have to be filled either by the States entering into a federal relationship with the successor Government or Governments in British India, or failing this, entering into particular political arrangements with it or them."

Provision for accession was made in the Government of India Act of 1935 as adapted under the Indian Independence Act, 1947:

> "An Indian State shall be deemed to have acceded to the Dominion if the Governor-General has signified his acceptance of an Instrument of Accession executed by the Ruler thereof . . ."

These were Acts of the British Parliament which created the Dominions of India and Pakistan. None of the provisions of these Acts can be questioned, at least by India, Pakistan or the United Kingdom which were parties to this agreement.

It was entirely for the Ruler of Jammu and Kashmir to decide taking all factors into consideration—the factor of contiguity, the factor of communications, the factor of economic ties and others—whether it would be beneficial for the State to be part of one Dominion or the other. The question of religion did not come into play at all. As a matter of historical fact, although the communal question assumed a large and unfortunate proportion in British India and was the platform on which the Muslim League based its policy, the people of the princely States, particularly Kashmir, although they suffered from many other disabilities and infirmities, did not suffer the disastrous consequences of religious hatred or intolerance.

Therefore, there is no substance in the suggestion that the accession of Jammu and Kashmir was not complete anp

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absolute because the people of that State had not been consulted nor been given opportunity to express their choice. It is clear that international law does not require that a treaty concluded by the ruler of a State, and with the mutual consent of the contracting parties, a treaty which is otherwise valid and binding, should be referred to the will of the people before it takes effect. There is no doubt, and I do not think that Pakistan can dispute it, that the Government of the Maharaja of Kashmir was recognized by Pakistan. It was with this Government that Pakistan concluded a "standstill agreement" by the exchange of telegrams on 12 and 16 August 1947. At that time the Government of Pakistan had not questioned whether the Government of the Maharaja was capable of expressing the will of the people, nor had it doubted the validity of the agreement. It is thus clear that international law does not require that the party to an agreement should look behind a recognized Government with whom it contracts to see that the agreement has been arrived at by prior consultation with the people. In fact, as I shall mention later, the accession was also supported by the largest political party in Kashmir.

I shall briefly deal with the subsequent events and developments in Jammu and Kashmir and see whether these have, in any way, affected the legal and constitutional position. I hope to satisfy the Council that they have not, in the slightest degree. Jammu and Kashmir became an integral part of India when the Instrument of Accession was signed and accepted, and from that day till today it continues to occupy the same position vis-a-vis the Indian Union, and no question can possibly arise of annexing Kashmir or further integrating it into the Indian Union. You cannot make more complete with is already complete.

The distinguished Foreign Minister of Pakistan has said nothing new on the legal aspect of the accession of Jammu and Kashmir to India. He has repeated the same mixture of misstatements, omissions of material facts and the refusal to face up to the clear provisions of the Indian Independence Act.

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I do not wish to enter into the details of our case, which is well known to the Security Council. It was last set out at length in 1962. I shall content myself with drawing attention to salient points.

Unlike most of the rulers who had acceded to India or Pakistan before 15 August 1947, the Ruler of Kashmir did not make up his mind. Pending a decision on accession, he asked for a standstill agreement both with India and with Pakistan in regard to communications, supplies and post and telegraph arrangements which had always been interlinked with British India. Pakistan concluded the standstill agreement, but before a standstill agreement with India could be concluded, tribal raids started. Despite the standstill agreement, Pakistan cut off communications and stopped the supplies of essential commodities, thereby putting undue pressure on Kashmir. When this pressure failed, armed invasion by nationals of Pakistan and tribal raiders followed. The Ruler's appeals to Pakistan were of no avail. The raiders caused havoc in different parts of Kashmir. The Kashmir State troops were incapable of offering effective resistance to such a large body of raiders. Events moved with great rapidity and the threat to the Valley of Kashmir became grave. Unable to prevent the raiders from committing large-scale killings, loot and arson, the Ruler requested of the Government of India that the State of Jammu and Kashmir should be allowed to accede to the Indian Dominion.

An appeal for help was also simultaneously received by the Government of India from the National Conference, which was the largest popular organization in Kashmir and which had fought for the peoples' rights and agitated for freedom of Kashmir from the rule of the Maharaja. The Conference also supported the request for the State's accession to India. May I draw the attention of the Council to what was stated by Sheikh Abdullah, who was then the leader of the National Conference, and about whom we have heard such laudatory remarks by the distinguished Foreign Minister of Pakistan? This is what he said :

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> "When the raiders were fast approaching Srinagar, we could think of only one way to save the State from total annihilation—by asking for help from a friendly neighbour. The representatives of the National Conference, therefore, flew to Delhi to seek help from the Government of India. But the absence of any constitutional ties between our State and India made it impossible for her to render any effective assistance in meeting the aggressor...But now, since the people's representatives themselves sought an alliance, the Government of India showed readiness to accept it. Legally, the Instrument of Accession had to be signed by the Ruler of the State. This the Maharaja did."

A Sheikh Abdullah has come to judgement. I hope Pakistan will accept that judgement, both as to the consultation with the people of Kashmir and as to the fact that India did not put any pressure on Kashmir to accede to it.

As I have already stated, the Governor-General, Lord Mountbatten, accepted the Instrument of Accession. In answer to a letter of the Prime Minister of India, dated 22 December 1947, requesting Pakistan not to give aid or assistance to the raiders and not to prolong the struggle, the Prime Minister of Pakistan, on 30 December 1947, replied :

> "As regards the charges of aid and assistance to the invaders by the Pakistan Government, we emphatically repudiate them. On the contrary , the Pakistan Government have continued to do all in their power to discourage the tribal movements by all means short of war."

On 1 January 1948, we approached the Security Council and, in our letter of that date, we stated :

> "Such a situation now exists between India and Pakistan owing to the aid which invaders, consisting of nationals of Pakistan and tribesmen from the territory immediately adjoining Pakistan on the nort-west, are drawing from

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> Pakistan for operations against Jammu and Kashmir...The Government of India request the Security Council to call upon Pakistan to put an end immediately to the giving of such an assistance which is an act of aggression against India."

It is an extremely significant fact, which is often overlooked because so much time has passed since that event, that we were the complainants before the Security Council, and that we complained of aggression by Pakistan. On 15 January 1948, the Foreign Minister of Pakistan again emphatically denied that the Pakistan Government was giving aid and assistance to the invaders or had committed any act of aggression against India. On the contrary, the Foreign Minister stated, his Government had continued to do all in its power to discourage the tribal movement by all means short of war. He stated that the allegations made by the Indian Government that the Pakistan Government was affording aid and assistance to the tribal forces, or that these forces had bases in Pakistan territory or were being trained by the Pakistan Army, were utterly unconfirmed. Pakistan never contended that India had no right to be in Kashmir.

This categorical denial by Pakistan of being behind the tribal raid is the most important and significant aspect of the whole Kashmir issue. It is significant that, at that stage, Pakistan never tried to justify its presence in Kashmir or to claim any right to be there. Pakistan was obviously quite aware of the fact that its presence in Kashmir was contrary to international law and was fully conscious of the illegality of its action. That is why Pakistan could not admit its presence in Kashmir and that is why there was a total and straight denial of its presence. Incidentally, the facts just stated by me clearly show that the plea now put forward that Pakistan went to Kashmir in support of a liberation movement is clearly an after thought designed to create a false moral justification for its invasion of Kashmir. Subsequent admissions by Pakistan, to which I shall presently refer, have made clear that this was not merely an equivocation but a deliberate falsehood.

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In its reply to the Government of India's complaint dated 1 January 1948, Pakistan, on 15 January, cast doubts on the legality of the accession of Jammu and Kashmir to India by suggesting that the accession has been obtained by fraud and violence. It is clear that in law, if fraud and violence was not established as vitiating it, the accession was perfectly legal and binding. On the question of fraud and violence, it may be stated that Lord Mountbatten had told the Maharaja of Kashmir, on behalf of the Government, that he might accede to Pakistan if he wished, and it would not be taken as an unfriendly act. It is also an admitted fact that not a single Indian soldier was sent to Kashmir to fight against the raiders before the accession. If any violence was used at all against the State of Jammu and Kashmir and the Maharaja, it was by Pakistan. If the Ruler of Jammu and Kashmir was forced to accede to India, it was not because violence was used by India but because it was used by Pakistan and therefore, strangely enough, the fraud and violence which Pakistan was complaining of was fraud and violence used not by India, but by itself, and it does not require a very deep knowledge of law to understand that a party cannot challenge or vitiate the legality of a contract by pleading its own unlawful acts.

The Foreign Minister of Pakistan has stated that India obtained the signature of the Ruler on the Instrument of Accession at a time when the people of Jammu and Kashmir had risen in rebellion against the Ruler and had ousted his authority from the State. This is a complete and utter distortion of facts. It was the tribal raiders and Pakistan nationals, aided and abetted by the Pakistan Government, who carried fire and sword into Kashmir, whose fate is now of such great concern to Pakistan, and compelled the Ruler to turn to India in the hour of extreme peril. Let us once again turn to Sheikh Abdullah, whose testimony is of great importance because it is the testimony of a witness who is speaking about contemporary events :

> "When for the first time the people of Srinagar saw the income planes from India and the tanks of the Indian

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Army passing through the streets here, their disappointment and anguish was turned into joy and happiness. The people here, Muslims, Hindus and Sikhs, heaved a sigh of relief, knowing that their honor and dignity could now be safeguarded. We must not forget that time."

The Foreign Minister of Pakistan has also spoken of a despotic Maharaja having signed the Instrument of Accession. Are all the rulers of States who have acceded to Pakistan paragons of democratic virtue ?

When the United Nations Commission for India and Pakistan visited Karachi in July 1948, Pakistan could no longer keep us the story that it had a blameless record as far as the invasion by the raiders was concerned, and Sir Mohammed Zafrullah Khan informed the Commission that three regular Pakistani Brigades had been fighting in Kashmir territory, since May 1948.

It is in this context that the commission's resolutions of 13 August 1948 and 5 January 1949 which we accepted – and these are the only two resolutions, apart from the resolution of 17 January 1948, to which we have agreed—have to be understood and appreciated. The very foundation of these resolutions was that the presence of Pakistan in parts of Jammu and Kashmir was illegal, and that it must withdraw its troops and vacate the aggression against India. This is clear from the wording of paragraph 1 of part II, section A, of the resolution of 13 August :

"As the presence of troops of Pakistan in the territory of the State of Jammu and Kashmir constitutes a material change in the situation since it was represented by the Government of Pakistan before the Security Council, the Government of Pakistan agrees to withdraw its troops from that State."

It was only on Pakistan's complying with this essential

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condition that the possibility of holding a plebiscite in Kashmir could arise. It is clear that the Security Council could not possibly have suggested to India the holding of a plebiscite so long as a gross illegality perpetrated by Pakistan and a deliberate violation of international law remained unrectified. The Security Council could not possibly countenance a naked aggression by one country against another.

It is often forgotten that, when Pakistan approaches the Security Council, it does so as an aggressor which has not vacated its aggression. My submission to you is that Pakistan as been guilty of gross contempt of this august body, and it has no right to be heard till it comes with clean hand. It has not only washed its hands and not only tries to justify its aggression but seeks to challenge the legal validity of an accession which has been accepted by the United Nations Commission for India and Pakistan and on the basis of which Pakistan's presence in Kashmir has been held to be illegal and contrary to international law. Memories are so short that I am sometimes surprised that Pakistan should be permitted to reverse the roles of itself and India before the Security Council. It comes here in the innocent garb of an aggrieved party making charges against us as if we were the aggressors. Throughout this Kashmir controversy, which in all conscience has been sufficiently long and protracted, Pakistan has continued to be an aggressor. Even today, it is guilty of continuing aggression and, in my submission, it has no *locus standi* whatsoever to make any complaint with regard to what India is doing in an integral part of its country.

It has been said that, notwithstanding the accession, assurances were given by several eminent Indian authorities that the wishes of the people of Jammu and Kashmir would be consulted with regard to that State's forming part of India. Those assurances which the Foreign Minister of Pakistan catalogued in his speech were given always in the context of the action of Pakistan's aggression and withdrawal of Pakistan from Kashmir as a condition precedent. The letter of Lord Mountbatten, the Governor-General of India, dated 27 October

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1947—a separate communication to the Ruler not forming part of the Instrument of Accession itself says :

> ". . it is my Government's wish that as soon as law and order have been restored in Kashmir and her soil cleared of the invader, the question of the State's accession should be settled by a reference to the people."

I emphasize the words "as soon as law and order have restored in Kashmir and her soil cleared of the invader". Even today, sixteen years latter, the soil of Kashmir is not purged of the invaders who continue unlawfully to hold two-fifths of the State. Every time the authorities in India, the Prime Minister or someone else, talked of ascertaining the wishes of the people such remarks were always in the context of our demand for Pakistan's withdrawal from Kashmir.

A plebiscite is only a machinery for ascertaining the wishes of a people. There is nothing sacrosanct about it. There are other methods which are equally efficient. The British Government has, in the last twenty years, transferred power to a large number of its colonies, but it has never thought of ascertaining the wishes of these colonies by holding a plebiscite. In India itself no plebiscite was held to determine either whether the people of the sub-continent of India wanted freedom or whether the majority of Muslims living in the country wanted partition. The United Kingdom come to the conclusion that independence should be given and the country should be partitioned because it was satisfied that the Indian National Congress on the one hand and the Muslim League on the other represented the people on these two issues. In Jammu and Kashmir the National Conference as a party represented the over-whelming majority of the people of that State, and, as I have already pointed out, it fully supported the accession of Jammu and Kashmir to India.

We accepted the two resolutions of the Security Council—namely, those of 13 August 1948 and 5 January 1949. Under these, a series of steps were contemplated to follow one after

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the other. The resolution concerning a plebiscite, namely, that of 5 January 1949, was subsidiary and supplementary to and an elaboration of part III of the resolution of 13 August 1949, if and when that part was reached. It was like an architect's design and a blueprint, and the resolution of 5 January 1949 could spring to life only if the resolution of 13 August 1948 was fully implemented.

The possibility of a plebiscite was envisaged because at that time no elections had been held in Kashmir. Subsequent to that, Kashmir has had three general elections with universal adult franchise, and at all these three elections a party has been returned to power which firmly and emphatically supports Kashmir's integration with India. The last election, in 1962, was held under the Indian electoral law and supervised by the Indian Election Commission. We ourselves have held three general elections. Even our worst enemies have not suggested that these elections were rigged or that they were not secret and free. It was the ballot box that determined which member should be elected, and the elections were so free that in one general election, in one State, a party was returned to power which was opposed to the Indian National Congress, the majority party in India. Therefore if it was necessary to ascertain the wishes of the people of Kashmir, they have been ascertained not once, not twice, but on three occasions. The Foreign Minister of Pakistan has made a great deal of capital from the questions he has used from various papers about the nature of elections in Kashmir. May I quote from one of the papers he has chosen to quote. This is from *The Guardian* :

> "The Jammu elections are a great and quite a genuine victory for the National Conference.
>
> "Elections in Kashmir are over. In Jammu the National Conference was given a tough fight by the Hindu Praja Parishad, and all but five of the seats were contested. After strenuous canvassing and election fever, equalled only in India's most advanced parts, the National Conference won two-thirds of the seats..."

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The Foreign Minister of Pakistan has referred to thirty-two candidates being returned unopposed in the 1962 elections but he has chosen not to mention the thirty-nine other seats which were hotly contested.

Pakistan's perpetual harping on plebiscite in Jammu and Kashmir is not due to its faith in democratic principles. I should have thought that democracy, like charity, begins at home, and before Pakistan preaches to us how we should ascertain the wishes of the people of a part of our country, if should first make at least a beginning in establishing democratic instrutions at home. I need hardly say that since its existence it has never sufficiently trusted its own people to permit them to participate in a general and direct election for the creation of legislative and parliamentary bodies. As the Foreign Minister knows, his own President has repreatedly stated that the people of Pakistan are not fit to exercise such democratic rights and, after seventeen years of independence, the people of Pakistan are still being educated in basic democracy, which I need hardly say is a very diluted form of democracy. The real reason for insisting on a plebiscite is to try and see whether it cannot inflame communal passions in Kashmir by making the inhabitants of that State believe that their religion is in danger, and bring about the recurrence of the terrible events of the partition of India in 1947 : bloodshed, migrations, untold human misery.

Therefore, if I may sum up, our position on Jammu and Kashmir is clear and unambiguous. The two resolutions of the Security Council dealing with the plebiscite were conditional and contingent on Pakistan vacating its aggression, and that condition has not been complied with. It is really more than a condition. It was the very basis on which these two resolutions were founded, and the condition not having been complied with and the basis having disappeared, these resolutions are no long binding on us. In any case, by the passage of time and various factors intervening—to which I shall draw attention a little later—they have become obsolete. We cannot possibly contemplate with equanimity the threat to the integration of our country and the danger to our cherished principle of secu-

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larism by the holding of a plebiscite in Kashmir. I wish to make it clear on behalf of my Government that under no circumstances can we agree to a plebiscite in Kashmir.

Let me deal with the allegation of Pakistan of the so-called attempt on the part of my country to further "integrate" Kashmir with India. In the first place, as Jammu and Kashmir is an integral part of India, what we have been doing is adjusting our relations with a constituent State of the Indian Union. It is on a par with the Congress of the United States of America dealing with one of its fifty federated States. Therefore, the question raised by Pakistan is purely a domestic matter with which only India is concerned and in respect of which Pakistan has no right intervene or interfere and which has been specifically excluded under the Charter from the jurisdiction of the United Nations.

But even so, let us see what we have done which has roused the wrath of Pakistan and which has brought it with such urgency to the Council. I may point out that part XXI of our Constitution deals with provisions with respect to the State of Jammu and Kashmir. There are also other articles in that part which deal with other States in the Indian Union, such as Andhra Pradesh, Punjab and Maharashtra. These provisions in turn are intended to be only temporary and transitional. These will continue to apply so long as the necessity for their application continues. When the necessity disappears, these provisions will be deleted and the provisions of the Constitution which apply to all the States would also apply to the States with regard to which specil arrangements have been made under this part. It may be pointed out that the powers of the central Government have constantly been modified or extended within the framework of the Constitution, so that the relationship between the central government and the constituent units has been changing. These changes which occur at various intervals are part larger process of the organic growth of the Union of India. Now the changes which are being contemplated and which formed the subject matter of Pakistan's letter of 16 January 1964 [S/5517], are changing the title of the Head

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of the State from "Sadar-i-Riyasat" to "Governor" and that of "Prime Minister" to the "Chief Minister" This is only a change in nomenclature.

The other proposal complained about is that the representatives of the State of Jammu and Kashmir in the Indian Parliament are hereafter to be elected directly by the people of Kashmir and not appointed on the recommendation of the Kashmir Legislature, as has been done so far. What is wrong in this ? One would have thought that Pakistan, with its professed solicitude for the right of self-determination of the Kashmiris, would prefer the direct election of their representatives to the Indian Parliament.

The next objection refers to certain amendments to introduce more progressive labour legislation. India is member of the International Labour Organisation and has adopted a number of ILO conventions. The Indian labour lagislation is in keeping with these conventions. The need for such labour legislation in Kashmir was not felt for very long, since there was hardly any organized factory labour in Kashmir. Now that certain mineral resources have been discovered and mining industry has started, it has become essential to introduce modern labour legislation to prevent abuses. We are bound by the ILO conventions and we cannot ignore our obligations with regard to any part of our territory. Similarly, what can be the objection to the Gavernment of India sharing with the State Government concurrently the power to make laws in respect of medical and other professions when the State Legislature agrees to this change and there is a formal request by the duly elected Government of Jammu and Kashmir ? We feel that an integrated, all-India system of medical and other services will lead to progress and increased efficiency and the co-ordination of professional standards in different parts of India. So all these changes are for the benefit of the people of Kashmir. It is not suppression of any human rights. If the Prime Minister of India used the expression "the gradual erosion of article 370", it was a perfectly correct expression because by its very nature

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article 370 is temporary and must gradually fade away and disappear.

In his speech the Foreign Minister of Pakistan referred also to further acts of integration by mentioning "the taking over of responsibility for the administration of highways, telegraphs, telephone, income tax, broadcasting and customs, the subordination of the Accounts and Audit Department of the State to the Auditor-General of India, the abolition of the custom barriers and the permit system for entry into and out of the State, the subjection of its economic plans 'to the Planning Commission' and the authority of the Supreme Court of India over Kashmir, and the arrogration by the President of India of powers to promulgate laws in Jammu and Kashmir by executive fiat-all these, among other things"—and I am still quoting the Foreign Minister of Pakistan— "are links in the chain with which Jammu and Kashmir has been shackled" [1087th meeting, para. 59]. If ever there was a travesty of what we have done in Kashmir it is this.

Does Pakistan expect that while it continues its aggression, we should sit with folded hands and do nothing whatever in Kashmir to improve the lot of the people ? Every action we have taken and to which the representative referred has been in favour of amelioration of the conditions in Kashmir, in favour of modernizing the State. Lock at the language used by the representative of Pakistan : "the subordination of the Audit and Accounts Department of the State to the Auditor-General of India". Is it a bad thing to have a proper audit of the accounts of a State by an independent official like Auditor-General of India, or those Pakistan want that those in charge of the revenues of Kashmir should pay ducks and drakes with the peoples money ? Surely, the abolition of custom barriers and the permit system for entry into or out of Kashmir helps trade and commerce and prevents unnecessary delays in the passags of goods between Kashmir and other parts of India. In India we have a Planning Commission which plans for the economic development of the country. The plan is prepared after full discussion and debate at various levels.

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We want Kashmir to participate in economic processes which are the modern methods of ensuring orderly economic development, beneficial to all the people of the country. It is indeed surprising that objection should be taken even to what is called the imposition of the authority of the Supreme Court of India over Kashmir. The Supreme Court is the highest court in our country, and under our Constitution it is the custodian of the fundamental rights of citizens. It is to safeguard these fundamental rights of the people of Kashmir that the jurisdiction of the Supreme Court has been extended to Kashmir. The President of India does not promulgate laws unless the necessity for it arises and the conditions for the promulgation are duly satisfied. Our President is not a dictator. He is the constitutional Head of the State, and he can only act on the advice tendered to him by the Government of India, which is a Government responsible to Parliament. It is indeed a misuse of language—I would rather say a perversion of language—to speak of these changes in Kashmir "as links in the chain with which Jammu and Kashmir has been shackled." No amount of declamation from Pakistan will deter the Government of India from doing the duty by our people in Kashmir.

The Foreign Minister of Pakistan, overwhelmed by the enthusiasm generated by his cause, agreed with the statement attributed to Sheikh Abdullah that "millions of rupees of the Indian Exchequer have largely been utilized to corrupt the people of Kashmir and almost kill their soul.. .." [1087th meeting, para 31]. Let us see how we have been corrupting the people of Kashmir and almost killing their soul. The revenue of the State of Jammu and Kashmir in 1947 was $5.5 million. In 1959-1960 it was $23.5 million. The *per capita* income in 1950-51 was $38 and in 1959-60 it was $48. The annual food production prior to 1951 was 0.3 million tons and 1961 it was 0.5 million tons. The electricity produced before 1951 was 4,360 killowatts per year and in 1961 it was 16,000 kilowatts. The number of factories in 1947-1948 was 44 and in 1961 it was 138. The roads per hundred square miles prior to 1951 were 2.5 miles and in 1961 it was 40 miles. This is important. The number of tourists before 1951, in a country

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divided from the outside world by "a wall of steel", in the words of the Foreign Minister of Pakistan, was 27,207 ; in 1961 it was 71,000. The number of pupils in primary schools prior to 1957 was 65,000 ; in 1961 it was 197,000. The number of high schools and higher secondary schools in 1947-1948 was 52 ; in 1961 it was 262. The figures of literacy were 6.6 per cent before 1947 ; in 1961 it was 12 per cent. The number of hospitals and dispensaries in 1947-1948 was 89 ; in 1961 it was 349. The average life expectancy before 1951 was thirty-two years ; in 1961 it was forty-seven years. What a distressing picture of a country, again to quote the phase used by the Foreign Minister, "under the control domination of India" !

I will now turn to the baseless and mischievous connexion which Pakistan has sought to establish, in its letter of 16 January 1964, between these changes in the constitutional relation between India and one of its constituent States and the theft of the holy relic from the Hazratbal shrine. It is suggested that this sacrilege has served to provide a spark to the bitter discontent and indignation which has been mounting in Kashmir as a result of India's policies and which is now rampant among the people of Jammu and Kashmir against recent Indian moves to "integrate" that part of the State with the Indian Union ; that since the theft of the holy relic the Muslim population of Jammu and Kashmir has given vent to its anger through massive demonstrations for more than ten days and that hundreds of thousands of Muslims kept marching in morning procession day after day through the streets of Srinagar. You will note that what is stated here is that the demonstration was by the Muslim population of Jammu and Kashmir ; no one else joined. It will be immediately noticed that Pakistan has tried to give a communal turn to the incidents in Kashmir. To Pakistan everything is communal. It cannot observe any event except through communal glasses. It cannot understand how Hindus and Muslims can live peacefully in Kashmir and have the best of relations. Its philosophy is that in the very nature of things Muslims must hate the Hindus and the Hindus must hate the Muslims.

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When the sacred relic was stolen, Pakistan expected that that there would be communal riots in Kashmir. Not only did it expect this, but it did its best to incite them, as can be seen from the statements that appear in the Press and also from the utterances of responsible men in Pakistan. President Ayub Khan, speaking in Sukkur, on 4 January 1964 said that 'the theft of the holy relic is a caluculated political conspiracy to subject the Muslims of the occupied Kashmir to more and more atrocities .....No Muslim, however sinful, could ever think of committing such a sacrilege". Therefore, according to Mr. Ayub Khan, it was certain that no Muslim could be held responsible for this heinous crime and as such it was evident that the crime was motivated by a political conspiracy ; andt his he ascerted without a little of evidence. As you see, the suggestion in this statement is that it must be a Hindu who stole this relic in Kashmir, and thereby incited the Muslims of Kashmir against the Hindus.

I am now quoting a very well-known newspaper from Stockholm. *Sevenska Degbladet* of 30 December 1963 said :

> " it is difficult to believe that the theft of Mohammed's lock of hair that has caused such riots in Kashmir, would have been initiated by Hindus even if, naturally, there are fanatics in Hindu circles also. It is more probable that the deed was committed by some Pakistan agent, perhaps one of the Pathans who, during the last few years, have been recruitted by agencies on the Pakistan side to take part in a planned 'Algerian liberation war' on the Indian side .. . In this way Chinese interests are also served. The Indian defence of Ladakh is wholly dependent on the connexions of the Stringar and the Vale. The only road from Ladakh goes straight down to Srinagar and, therefore, has an enormous strategic importance."

In quoting from the dispatch from Richard Critchfield, Mr. Bhutto, the Foreign Minister of Pakistan, conveniently omitted a significant portion thereof. This is what the dispatch says in continuation of what Mr. Bhutto quoted : "Meanwhile,

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in Pakistan, the Foreign Minister, Mr. Bhutto, urged the Kashmiris to rebel against the Indian-controlled Government." And the Foreign Minister comes to you here to appeal for peace. I repeat : the Foreign Minister, Mr. Bhutto, urged the Kashmiris to rebel against the Indian-controlled Government.

Does the Foreign Minister accept this presentation of his statement to be correct ? *The Economist* of 4 January 1964, also quoted by Mr. Bhutto, says :

> "Pakistan's Foreign Minister, Mr. Z.A. Bhutto, has charged Indian 'occupation authorities' with instigating the theft, apparently so as to terrorize the 'oppressed' Muslims into fleeing from their homes. This is an implausible accusation, to put it mildly, but the point is not that it is implausible, but that it is made."

So, *The Economist* realizes the point of Mr. Bhutto, the Foreign Minister, in making this charge that the theft was instigated terrorizie the oppressed Muslims. The suggestion was that there should be trouble in Kashmir and the people of Kashmir, especially the feelings of the Mulims, should be inflamed and that they should rise against the Hindus.

Now, unfortunately for Pakistan, it is a fact which cannot be changed that there was complete communal unity during the demostrations by the people of Kashmir protesting against the theft of the relic. Hindus and Sikhs joined their Muslim brethren in mourning this loss. To the Hindus and the Sikhs the relic was not a Muslim relic but a relic belonging to Kashmir, indeed to the whole of India. We in India respect each other's religion. Hindus revere Muslim saints and vice versa. We all join in the celebrations of different communities. It requires a modern secular rational outlook to understand this phenomenon.

A further significant fact of these demonstrations is that not only were they not aimed against the Government of India but, on the contrary, they showed complete confidence in the

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policies of my Government, and what is more, they appealed to the Union Government that they, rather than the local administration, should investigate this crime and bring the guilty to book. It was in response to the appeal of the people of Kashmir that the Government of India sent its highest officials to Srinagar to investigate the matter and to recover the relic. The action of my Government was successful : the relic was recovered and restored. According to a report in *The New York Times* of 4 February 1964, under the date-line of Srinagar 3 February :

> "A Committee of Muslim leaders decided today that the hair now ensrhined in a mosque near here was the one that disappeared from there last December 26th."

According to the latest information that I have received, a special "didar", or exposition, of the holy relic was held on 3 February at Hazratbal. A number of prominent religious personalities, most of whom were nominated by the Action Committee, to whom reference has been made by the Foreign Minister of Pakistan, saw the holy relic and declared it genuine in the presence of the large number of people in the mosque. Among those who identified the relic was Maulana Masoodi, about whom also a reference was made in the statement in the Foreign Minister of Pakistan. The investigation is in the final stage and the accused persons will be put on trial very soon. It is true that the demonstrations were aimed at the local administration, but surely it is a fundamental right in a democracy of the people to express their dissatisfaction with their Government. Such demonstrations are not unknown even in more sophisticated societies. The people of a democratic country have the inalienable right not only to show their want of confidence in their Government but to turn it out and elect another one.

What I have been saying about the nature of the demonstrations in Srinagar is amply borne out by the testimony of foreign correspondents who were on the scene and who witnessed what had happened. Thus, *The Guardian*, the well-known

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English newspaper which Mr. Bhutto quoted, had this to say on 6 January 1964 :

> "There was singing and dancing in the streets of Srinagar yesterday after the Government announced that the relic had been found. A sullen and angry cry suddenly transformed into a joyful one."

The New York Times of 24 January 1964 has the following story from its correspondent, Thomas F. Brady :

> "The dissatisfaction of Kashmiris with their local government, but apparently not with the Indian national Government, found expression in protests and riots that followed the theft .....The big Moslem majority there seems to have shown no animus toward the Hindu minority .....Indeed, the indications are that main targets of the arson and looting that followed the disappearance of the relic were the extensive business interests of Bakshi Ghulam Mohammed, former Prime Minister of the State and of his brother and political right hand, Bakshi Rashid. Both are Moslems."

I am not here to defend either Mr. Bakshi or his brother. The point of the quotation is that the demonstrations were against the local administration and not against the Government of India. *The New York Times* of 5 January 1964, had the following :

> "One view that was expressed here was that the pro-Pakistan elements had stolen the hair in an attempt to discredit the pro-Indian Kashmir Government."

The Foreign Minister quoted the views of an Indian columnist in *The Hindustan Times* of 8 January. This columnist is obviously not friendly to the Government of Bakshi Ghulam Mohammed or even to the present successor Government. In a free country with full freedom of the Press every one is entitled to express his own views. In fairness to the columnist, I must, however, read two paragraphs from the same article

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which Mr. Bhutto for obvious reasons left out :

> "But the striking fact has to be recorded that the dismay and anger of the people of Kashmir did not express themselves in communalism or in anti-Indian sentiment. The people did not turn to the pro-Pakistan elements for guidance and leadership. Their own demand was that India should intervene, for investigation of the sacrilege, to punish the guilty and to ensure that Kashmir does not lapse back into Bakshi rule
>
> "The people of Kashmir have given their clear verdict and they are entitled to hope that they have struck the blow for a good and clean administration responsible to their needs and aspirations. They have put their trust in India doing the right thing by them. Can we afford to betray them again ?"

So the emphasis in all these quotations is that the people of Kashmir have confidence in India, that they want India to intervene and that they are not satisfied with the local administration.

Having failed in its evil design to stir up trouble in Kashmir, Pakistan diverted its attention to East Pakistan, and serious riots broke out in Khulna and Jessore and the Muslims there attacked the Hindu minority. There were terrible incidents of looting, arson and stabbing. A large number of members of the frightened minority started a trek towards India, which lay just across the frontier. It is strange that while in Kashmir itself the large Muslim majority did not suspect the Hindus of having a hand in the theft of the relic, 1,500 miles away the Muslims of East Pakistan were demonstrating against the Hindus and accusing the Hindu community in Kashmir of anti-Muslim actions. May I quote the dispatch of Jacques Nevard in *The New York Times* of 19 January 1964 :

> "Few people here"—"here" means East Pakistan, where these riots took place—"give much credence to the

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Government-supported view that the East Pakistan riots were caused by the disappearance three weeks ago of a reputed hair of the Prophet Mohammed.

"Officially approved processions to protest the loss of the relic got out of hand in the Khulna and Jessore district of East Pakistan, leading to riots against Hindu."

I request the Council to mark and note the words "officially approved".

The repercussion of the Khulna riots resulted in riots in Calcutta, Refugees from East Pakistan came to the city with lurid tales of what had happened to their co-relionists on the other side of the frontier. The passions of the Hindus in Calcutta were inflamed and unfortunate incidents took place where Muslim lives were lost and some houses in which the Muslims lived were burnt down.

Now, by coincidence I myself was in Calcutta during four days while these riots were taking place. I had been there on official tour as Minister of Education, but I was an eyewitness to what was done by the West Bengal Government to put down these riots. I express my admiration for the strong measures taken by the Chief Minister of West Bengal. He immediately called out the troops and curfew was ordered throughout the city. Our Minister of Home Affairs, Mr. Nanda, also arrived in Calcutta and further action was taken. About 5,000 hooligans were rounded up, a citizens' committee was set up to help to restore peace and order, and assurance was given that no landlord would be permitted to beneft by the destruction of Muslim houses and that as far as possible Muslims would be rehabilitated in the same places where they originally lived. I was staying with the Governor of West Bengal, Miss Padmaja Naidu, a distinguished daughter of a distinguished mother, and she threw open a large part of the Government House in order to give shelter to the Muslims who had lost their homes and their belongings. The Calcutta riots were put down firmly and

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sternly, and today there is complete peace and the normal situation has been restored.

The terrible tale of communal riots did not end here, however. There were subsequent riots in Dacca, Naravanganj Chittagong, Barisal - they are all places in East Pakistan—and in many other places in East Pakistan. Terrible scenes were enacted, and even—according to as important a news agency as Reuters—about one thousand Hindus were killed. Our own information is that throught East Pakistan the number is much larger; the throuble has not yet ended and the tension still continues. The Deputy High Commissioner for India in Dacca has so far received requests for migration from over 50,000 families, involving more than 200,000 people; into one district of Assam, namely Garo Hills, alone, about 20,000 refugees have moved from East Pakistan. These are official figures.

I did not have any desire to cite these figures—they are grim and unpleasant but I felt that I should give the Security Council a full picture since the distinguished Foreign Minister of Pakistan in his statement sought to present a one-sided picture before the Council. I wish to make it clear that whatever may happen in East Pakistan, we do not condone the criminals who are guity of taking innocent lives To us a Muslim life is a precious as a Hindu life because both a Hindu and a Muslim are Indian citizens. We condemn bloodshed and looting and arson, whatever may be the cause or the provocation and wherever it may take place. We have respect for human life and we abhor commnnal frenzy or fanaticism.

As our Prime Minister said in his appeal to the nation from his sick bed on 23 January 1964:

> "We have had distressing news of happenings in East Pakistan in the past few days in which lives of many innocent men, women and children have been lost. These have naturally shocked and upset us. I hope that our countrymen will maintain calm and will refuse to be provoked by these events. Such restraint will be in keep-

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ing with age-old traditions of tolerance which is our most precious heritage. Whatever happens elsewhere, citizens of India should prove themselves worthy of their heritage and discharge their sacred duty to live in amity and good will with their fellow citizens whatever be their religion or faith. In that way alone, we can prove ourselves worthy of our heritage and the confidence which Mahatma Gandhi, our leader, reposed in us and of our dedication to the principles of freedom and democracy and our secular State."

However, I am sorry to say that the attitude of Pakistan is different. By its policy, by its action, by its utterances, it has deliberately incited these riots. There was peace and harmony between the two communities in India before Pakistan preached "jehad", holy war, and accused the Hindus without a shred of evidence, of being at the bottom of the theft of the sacred relic. It deliberately and for set purpose created an atmosphere so that riots should break out in East Pakistan. Thousands of innocent lives have been lost. It makes no difference whether these lives were of Hindus or Muslims. The physical act by which these lives were lost might be committed by a Hindu or a Muslim fanatic or a Hindu or a Muslim ruffian, but the Pakistan Government cannot be absolved of its responsibility for the death of these innocent people. We in India treat all our citizens alike. We give them the same rights and we want complete communal harmony. We have successfully achieved this, and if we are left to ourselves we will have no communal trouble whatsoever; but whenever there is communal trouble we put it down with a heavy hand. Pakistan, on the other hand, has from its very inception based its policy on communal hatred and fanaticism. It has incited the Muslims in Kashmir to rebel against India, and it has constantly harped on the theory that Hindus and Muslim are two separate nations.

Let me point out the attempts we have made to improve our relations, and point out also what Pakistan has done in return. Our Prime Minister appealed to Pakistan more than once to enter into a "no-war declaration". He said that both

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countries must settle their differences peacefully and resolve that under no circumstances and for no reason will either country go to war with the other. This offer was refused. Why? Has Pakistan got mental reservations? Does she intend to use violence against India under certain circumstances? When the recent trouble broke out, our President appealed to President Ayub Khan to issue a joint declaration to our respective peoples appealing for peace and harmony. This very reasonable proposal of joint appeal—which, by the mere fact of its being made jointly by the two respective Heads of State, would have had the most beneficial psychological effect—also was refused. We then proposed that the two Home Ministers of India and Pakistan should meet and visit the scenes of disturbance and suggest what further steps should be taken to prevent such happenings. We were met with a Counter proposal which was tantamount to refusal.

The Foreign Minister referred to certain talks that took place between India and Pakistan over Kashmir and has sought to make out as if the talks failed due to Indian intransigence. Let me now state what the facts are. On the eve of the first round of talks in Rawalpindi, in Pakistan, the Pakistan Government announced an agreement in principle on the demarcation of the border between that part of the State of Jammu and Kashmir which is now under the unlawful occupation of Pakistan and Sinkiang. At this stage we could have legitimately broken off the talks, but despite the provocation we decided to continue them. In March 1963, while the talks were still going on, Mr. Bhutto went to Peking and signed the agreement. Again, we showed restraint and continued the talks, though we had enough provocation. The talks were finally broken off by the Foreign Minister of Pakistan, Mr. Bhutto, in spite of all effort to keep the talks going. This proves that the intransigence was not an our side at all but entirely on the side of Pakistan.

Now let us contrast this with the attitude of Palkistan. When China attacked us and was guilty of clear and unabashed aggression, Pakiston carried on virulent propaganda against us and in favour of China. Not only did it use every effort to prevail upon friendly countries not to give us assistance in the

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hour of our dire peril, but it took up the attitude that it was not China, but India, that was guilty of aggression. The whole of the world, with the possible exception of a few States, saw and understood that we had been victims of a cruel aggression.

The Foreign Minister has given expression to excellent sentiments with regard to the preservation of peace and the solution of international problems by peaceful negotiations rather than by violent means. We fully endorse these sentiments and we have always subscribed to them. It is easy to come to the Security Council in the garb of innocence and to appeal to world opinion by emphasizing that the attitude of Pakistan has always been friendly and peaceful and that it has not given any provocation whatsoever to my country—but, when we look at the facts, we find quite a different picture. From time to time, there has been open incitement to violence by responsible opinion in Pakistan; constant suggestions have been made that, if the Kashmir problem cannot be solved peacefully, it must be solved by violent means. Even in the Foreign Minister's own letter of 16 January [S/5517], which the Council is now considering the conclusion is very significant, namely, that "the people of "azad" Kashmir and Pakistan may, in desperation, turn to other courses". What are these other courses? Courses other than peaceful courses are violence and bloodshed. I have rarely seen, in a public document addressed to a body which is responsible for the maintenance of international peace and good relations, and open threats being held out by a member State to refer to violence under certain circumstances. How, then, can we take the Pakistan Foreign Minister's statement here seriously?

I may refer to a letter that appeared in *The observer* on 17 June 1963, by the late John Strachey, Labour M.P., who had visited both India and Pakistan as a Member of a parliamentary delegation. Addressing the editor of *The Observer*, he wrote :

> "You complained that India still keeps a large part of her army on the Pakistan frontier. Before going to Pakistan last month this seemed to me also to be an

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> indefensible deployment of India's forces, but during the week in which my collegues were in Pakistan, a Pakistan Cabinet Minister declared publicly that the Kashmir question must be settled immediately by peaceful means or otherwise. Another Pakistan public man in a key position assured us that if China attacked again he and his friends would not miss the opportunity this time but would immediately attack India. And almost every Pakistani public man whom we met started the conversation from the assumption that India had attacked China."

As you know, Mr. John Strachey, who died recently, was a very respected Member of Parliament. This is his own testimony as to what he heard from a Member of the Pakistan Cabinet and from men high up in Pakistan public life. This clearly shows that Pakistan has all along intended to use violence against our country when the opportunity arose.

In this connexion, I should also like to mention the real attitude of Pakistan with regard to Kashmir. When one analyses the speech made by the Foreign Minister of Pakistan, the underlying sentiment is this : India must settle the problem of Kashmir with Pakistan to the latter's satisfaction; if it does not, there will be communal disturbances, there will be trouble, there might even be bloodshed. Therefore, Pakistan has approached this Council not with an appeal but with a threat, and we are being asked to submit to this threat. It is unfortunate that Pakistan does not realize that it is making the lives of millions of people both in our own country and in Pakistan mere pawns in the game of politics.

India today is perhaps the only country which can stand up to Chinese expansion and aggression. If India failed, there would be nothing to control the Chinese forward policy. It is therefore not only in the interest of India itself, but also in the interest of peace, that India should be strong. We are very greatful for the aid that we have received from friendly countries. But the whole purpose of this would be completely

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nullified if India became domestically weak. No country can be internationally strong if it does not also have domestic strength. The domestic strength of India depends upon the secularism, upon the vital necessity of the different communities that reside within India living in peace and harmony. Pakistan does not want India to be strong; it wants to weaken India, both internationally and domestically. Its recent flirtations with China are clear evidence of this fact. In this context, Kashmir assumes great importance. Pakistan has been complaining of India's changing the *status quo* with regard to Kashmir, and yet it has given away to China, in the border agreement, over 2,000 square miles of Kashmir. Pakistan has no right or title to it and yet it has been generous at another country's expense. If ever there was a gross change of *status quo*, it has been by Pakistan. But, apart from the fact that legally and constitutionally Kashmir is part of India, apart from the fact that we do not subscribe to the theory that Hindus and Muslims are two nations and that Kashmir is the symbol and guarantee of our secularism, Kashmir has now assumed vital importance because of the continuing menace of China. A mere glance at the map of India will be sufficient to illustrate this.

The Foreign Minister of Pakistan has sung paeans of praise n favour of Sheikh Abdullah. He has told us that Sheikh Abdullah is the Lion of Kashmir, leader of Muslims there, and that we have put him behind bars. It is dangerous to have short memories. May I remind the Foreign Minister of Pakistan of what his own Prime Minister at the time, Mr. Liaquat Ali Khan said about Sheikh Abdullah :

> "Speaking to pressmen at Srinagar on November 10th [1947], during Pandit Jawaharlal Nehru's visit to that place, Seikh Abdullah was reported to have observed that there may not be a referendum at all. This quisling who has been an agent of the Congress [Party] for many years, struts about the stage bartering away the life, honour and freedom of Muslims of Kashmir who are rotting in gaol."

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This statement was made by Mr. Liaquat Ali Khan on 10 November 1947. In other words, when it suits Pakistan, Seikh Abdullah is a quisling – and, when it suits Pakistan better, he is a hero and the Lion of Kashmir and the leader of the Muslim community. I do not know when the tune will change again. Again, in a telegram dated 25 November 1947 to the Prime Minister of India, the Prime Minister of Pakistan said :

> "I am extremely sorry that you still support Seikh Abdullah, who you know is a quisling and a paid agent, to disrupt the Mssulmans of Kashmir."

So here our Prime Minister was being accused of supporting a quisling who should not have been supported.

I should like to say a word – and I am sorry that I cannot say more because the matter is *sub judice* – about the trial of Sheikh Abdullah. We very much regret the delay that has taken place in concluding this trial, but it is being conducted according to the procedures laid down by law. *The Times* of London in a dispatch when the trial started pointed out how fair the judge was and how he held the scales of justice even between the prosecution and the defence. It is true, as the Foreign Minister has pointed out, that there are a large number of witnesses. This is inevitable in a conspiracy trial. I must also point out that the delay is partly due to the fact that there has been lengthy cross-examination of witness by the defence and from time to time adjournments have had to be given in the interest of Sheikh Abdullah himself. And the most significant feature of this trial is that Sheikh Abdullah has a counsel of his own choice a very distinguished lawyer from the London bar, Mr. Dingle Foot, Queen's Counsel. Therefore, the trial is public and every facilities is given to the accused to defend himself.

There is another matter to which I should like to refer in the statement made by the Foreign Minister of Pakistan. The Foreign Minister has also spoken of the "wall of steel" that "separates...Kashmir from the outside world" and has said that

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"India is trying desperately to conceal what is heppening there under a massive blanket of censorship" [1087th meeting, para. 16]. Now one thing about which we are particularly proud is that Kashmir has always been open to any visitor from any country and of any nationality. We have nothing to hide in Kashmir, nor are we ashamed of anything we are doing there. Every year 70,000 to 80,090 tourists, including a large number of foreign tourists, have been coming to this most beautiful spot.

Pakistan has made a great deal of play with the idea of self-determination. It has tried to appeal to world opinion by proclaiming that its interest in Kashmir arises from the fact that the people of that State have been denied the right of self-determination. Now, in the first place, we must determine what are the connotations of the word "self" in this expression. What is the "self" which has the right to determine its destiny, to determine whether it would be a part of one country or another or would be independent? It is clear that the "self" contemplated in the enunciation of this democratic principle is not and cannot be a constituent part of a country. It can be operative only when one is dealing with a nation as a whole, and the context in which it can be applicable is the context of conquest or of foreign domination or of colonial exploitation. It would lead to disastrous consequences if the expression were extended to apply to the integral part of any country or sections of its population, or to enable such integrated or sections of the population to secede. The principle of self-determination cannot and must not be applied to bring about the fragmentation of a country or its people. Let us not forget that the United States fought a bloody civil war to prevent, not a small part, but the whole of its South from seceding and constituting itself into an independent country. I have no doubt that a large majority of the people of that part of the United States were opposed to Abraham Lincoln and his policies and wanted the freedom to refuse to emancipate the slaves; and yet the United States Government, very rightly and properly, in my opinion, refused to break up its country by permitting a part of it the right to secede.

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In the world today we have innumerable countries in Africa and Asia with dissident minorities. Many of these minorities might like to set up governments of their own. We should have to repaint the map of the world, and many States Members of the United Nations would be broken up. Many countries today have populations made up of different races, religions and cultures, and the future of the world depends upon the evolution of multiracial States and nations of different parts of the world. Pakistan's thesis is a reactionary and obscurantist one. The thesis of self-determination which Pakistan advocates has been used in the recent past by colonialists and neo-colonialists for the disruption of newly emergent States. Pakistan would have the hands of the clock set backwards and would go back to the days when countries permitted only one religion and persecuted those who followed another faith. I appeal to this Council not to listen to contentions and arguments which would be destructive of peace and progress and which would lead to the dismemberment of many nations.

Pakistan possesses the happy gift of preaching what it has itself never practised. It asks us to hold a plebiscite in Kashmir without even so much as thinking of holding an election in its own country. It wants us to concede the principle of self-determination to a constituent part of our country without looking nearer home. Has Pakistan ever thought of permitting self-determination to the Pathans who want a State of their own, which is described as Pakhtunistan?

Let me say a word about the allegation of eviction of India Muslims made by Pakistan against us. I shall refute this charge not by arguments but by cold statistical facts to which there can be no answer. The Indian census figures for 1961 show that there was an increase of 25.6 per cent in the population of Muslims in India during the period between 1951 and and 1961, against an over-all increase in the population of India of 21.5 per cent. Does this prove genocide or that Muslims from India are being driven out? Not only is no Indian Muslim leaving India, but the fact is that Pakistani Muslims in large number have been infiltrating into the surrounding Indian States

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of West Bengal, Assam and Tripura. This is clearly proved by Pakistani census figures. It will be seen from those figures that the Muslim population in East Pakistan increased by 26 per cent during the period 1951-1961. It is significant, however that much smaller increases have been recorded in some of the districts of East Pakistan bordering on India. Noakhali had an increase of only 4.7 per cent, Comilla 15.4 per cent and Bakarganj 16.8 per cent; and Sylhet indicated a rise of only 13.9 per cent, against the over-all provincial increase of 26 per cent. The Indian census figures in the neighbouring border districts of Indian States are complementary and reveal that the population of Muslims in Tripura rose by 68 per cent, in Darjeeling by 200 per cent, Dinajpur by 24 per cent, in Malda by 62 per cent, in Garo Hills by 49 per cent and in Khas and Jaintia Hills by 88 per cent. These figures speak for themselves and are particularly revealing when it is remembered that the over-all increase in the Muslim population in India as a whole was 25.6 per cent. Every natural demographic consideraton will show that this big increase could have been possible only by a largescale influx from East Pakistan, particularly from those districts which, according to the Pakistan census figures, show abnormally low increases in population.

Let us now examine the picture on the other side. After the partition and the consequential mass migrations and killings Pakistan succeeded in getting rid of practically all non-Mulims in the Western wing. In the Eastern wing, 9.34 million were left, according to the Pakistan census figures of 1951. This was roughly 22.03 per cent of the total population of East Pakistan, which was 41.93 million. The corresponding figure for 1961, as can be seen from the Pakistan figures, is 9.38 million non-Muslims, which constitutes 18.5 per cent of the total population of 50.84 million in East Pakistan. It will be noticed that the per centage has gone down by nearly 3.6 per cent over the period of ten years. What is more remarkable is that the population of the Hindu minority in East Pakistan has remained practically stationary, although the increase in population of Muslims in Pakistan during this decade was 26 per cent. If there had been

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a similar natural increase in the number of non-Muslims, there should have been an increase of well over 2.25 million. Why has there not been this natural increase? The answer is that they have all been squeezed out during this period. That fits in with our records, which show the arrival in India of refugees of approximately that number. If the Foreign Minister of Pakistan has any other answer, let him come out with it. Let him also think about who is guilty of evicting minorities.

I also wish to point out that no one is evicted from India without complying with the provisions of the rule of law. In the first place, there is a careful administrative scrutiny as to the nationality of the person concerned, and it is only after the scrutiny reveals that the person is not of Indian nationality, or that he has not the necessary permit for residence or visa, that he is served with a quit notice. Further, after he has been served with a quit notice he has a right to go to the High Court for a writ on which he can satisfy the Court thas the decision of the Administrative Tribunal was incorrect. Recently, both in Assam and Tripura, judicial officers have been appointed even for the purpose of scrutiny before quit notice is served.

Tbere is one other minor matter to which I would refer and that is that a large number of non-Muslims have been appointed in the recently constituted Ministry of the States of Jammu and Kashmir. Under normal parliamentary procedure, it is entirely the right of the Prime Minister of Jammu and Kshmir to constitute his Cabinet. In India we do not make appointments on communal considerations. It is true that we try to see, as fas as possible, that no part of India and no large community goes wholly unrepresented in the Government, and that is a federal principle with which federal governments are familiar. It is a tribute to Kashmir that its Cabinet should truly reflect the inter-communal unity that prevails in the State of Jammu and Kashmir.

The reference made by the Foreign Minister of Pakistan to the dismissal by Prime Minister Shamuddin of officers of the

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State Government is not correct. These dismissals were made not for the motive suggested by the Foreign Minister, but as a part of the drive against inefficiency and corruption. All the officers were not dismissed, but many of them were retired. Sixty of these officers were Hindus and Sikhs. The communal colouring sought to be given is entirely without foundation.

Before I conclude, I would like to refer to some other points in the statements of the Foreign Minister of Pakistan, both in his letter to the Security Council dated 16 January 1964 [S/5517] and his statement the other day. The Foreign Minister complained that the statement of Mr. Nanda, Minister of Home Affairs of India, at the session of the Indian National Congress held at Bhubhaneshwar was inflammatry in character. Mr. Nanda spoke in Hindi and we have here the full text of his statement. I do not find anywhere in the speech that Mr. Nanda made anything even remotely suggestive or calculated to insite communal passions. On the contrary, Mr. Nanda said :

> "In case something happens there"—that is in Pakistan—"we should not allow anything to happen here"—that is, in India—"and in case some trouble arises, stern measures should be adopted and immediately everything brought to normal."

Evidently, the Foreign Minister of Pakistan has relied on some erroneous English translation of Mr. Nanda's speech. As a matter of fact, far from inciting communal passions, Mr. Nanda played a most worthly role in Culcutta in organizing joint Hindu-Muslim conciliation and peace squads which in conjunction with the stern measures taken to bring miscreants to book, including the police and military firing at them whenever necessary, helped in bringing the situation in Culcutta—which, it should be remembered, has a large population of 6 million inhabitants - within control and back normal in two to three days. It is inconceivable that on to the platform of the Indian National Congress where Mr. Nanda spoke, which is always on the side of inter-communal unity, any Minister, far less the Home Minister, would make inflammatory speeches.

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The Foreign Minister of Pakistan in the course of his statement said the reply of the President of India to President Ayub Khan's letter was not helpful. What could be more helpful and sincere and earnest than the concluding paragraph of our President's letter of 16 January 1964 which has been circulated to members of the Security Council [S/5522]. I might also refer to the statement made by our President on the occasion of our Republic Day on 26 January, which is couched in the same spirit and I quote from that latter :

> "In our democracy men of all faiths have the right to live in honour and harmony under the rule of law; life and liberty of every citizen, irrespective of caste or creed, ought to be sacred to every other. Any departure from this is not only morally indefensible but poltically dengerous; it weakens our internal unity at a time when the danger to our country from without is undiminished. The Government can and will take every step necessary to put down anti-social behaviour but the co-operation of people is no less important if peaceful conditions are to be preserved, for such peace is the basis on which we could build our future'"

On the other hand the letter of the President of Pakistan contained some very serious allegations against India. In our President's reply attention had to be drawn to those inaccuracies in order to put the matter in proper perspective. It is clear, however, that the spirit of our President's message was one of cordiality and constructive approach to try to solve the very urgent problem of restoring communal harmony with which both countries are faced.

The Foreign Minister of Pakistan characterized India's presence in Kashmir as colonial. I deeply regret that he has allowed himself to make such an outregeous allegation against my country. He is either ignorant of or chooses to ignore the history of India during the last fifty years. He seems to have forgotten that it was India's epic struggle against colonialism,

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under the leadership of Mahatma Gandhi, a long drawn struggle against the mightiest Empire in history, that brought about freedom for India and his own country. He cannot be unaware of the tremendous impact of the Indian movement against colonialism on all freedom movements in Asia and Africa and the inspiration it provided and continues to provide for such movements all over the world. It is our great satisfaction to know that this is acknowledged by the newly emergent countries in Asia and Africa. He completely ignores the unceasing fight that India has waged in the United Nations and the support to freedom movements in Asia and Africa that India has given during the sixteen years of its independent existence and as a founder Member of the United Nations. To malign such a country as colonial shows the height of prejudice; to insinuate that India's present leaders, most of all Prime Minister Jawaharlal Nehru—the greater part of whose life has been spent as a freedom fighter not only for his own country but for Asia and Africa—should follow a colonial policy in something which Pakistan alone could do.

The fact is that Kashmir has, since the dawn of history, been a part of India, a repository of Indian culture and heritage. It has shared fully in the vicissitudes of Indian history. It has been a part of the Empire of Asoka and Akbar Srinagar, the capital of Kashmir, was founded by the Great Emperor Asoka in the third century B.C. The people of Kashmir are blood of our blood and flesh, and Jammu and Kashmir as one of the sixteen States of the Indian Union and the people of Kashmir as Indian citizens share in the total freedom which India enjoys. To say that Kashmir is under India's colonial hold is gross calumny and an insult to the people of Kashmir who are Indians and have been Indians ever since one can remember. The fact is that it is time Pakistan examined its own conscience and looked into its own heart and asked itself how it is that it is holding two-fifths of Kashmir; that, if anything, is colonial occupation.

It has often been said and, I think, it has also been repeated by the Foreign Minister of Pakistan, that the only bone of

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contention between India and Pakistan is Kashmir and that if the problem of Kashmir were solved to Pakistan's satisfaction, then there would be friendship and full co-operation between our two countries. I beg to differ. As I have pointed out before it if difficult to understand the basic philosophy on which the policy of Pakistan is based. In every aspect of its foreign policy, it has disclosed an anti-Indian bias. At one time we were told by responsible Pakistan leaders that the reason why they were driven into the arms of China was our Kashmir policy; as China did not like this reason for Pakistan's friendship for China, they changed the tune and suggested that even if the problem of Kashmir was solved, Pakistan would continue to support China. In other words, Pakistan's present attitude of hostility towards India is not due to the Kashmir problem alone, but it is something more deep-seated.

The same is the attitude of Pakistan with regard to communal riots. The argument is that riots would miraculously stop if the Kashmir problem were solved. Again, there is no connexion between Kashmir and the riots. Riots come about because of the communal policy of Pakistan and because of the incitement to communal passion of which it is guilty and of which I have given ample evidence earlier in my statement.

I wish I did not have to take so much time of the security Council and that I had been spared the need for refuting the many allegations made by the Foreign Minister of Pakistan against us. Repetitious recriminations and fault-finding in the Security Council do not help. If these had been fruitful, we would not have been sitting here today after so many years. I was bound to set the record straight in the face of the grave and and unfounded allegations made against us by Pakistan. I would like to assure you, Mr. President, and the Security Council, that despite provocations we shall continue to work towards amelioration of our unfortunate relations with Pakistan. We do not want our relations to be built on recrimination but on friendship and co-operation and mutual respect. And here I wish to say categorically on behalf of my Government and the Indian

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people that we wish Pakistan prosperity and well-being as a free and sovereign State and want to build our relations as between two friendly and neighbouring countries on the basis of equality, integrity and sovereignty.

You might as well ask me what steps should be taken to alter the present unhappy situation and bring about better relations between India and Pakistan. I have not the slightest doubt in my mind that the people of both countries want to be friends. They belonged to the same country sixteen years ago. They have shared the same tradition and the same past, and even today citizens of Pakistan and India have connexions and ties of relationship. If only the Government of Pakistan made a proper gesture and gave up its present attitued, my Government would met it more than half way. With the greatest respect, I wish to suggest that the passing of resolutions will not be helpful. It is likely only to aggravate feelings. No resolution, however well drafted, will satisfy both the parties. What is necessary is action and what we have to remember is that first things must come first.

The first thing, therefore, is to restore normal conditions in the disturbed area of India and Pakistan and to bring about inter-communal unity and harmony in both the countries. For this purpose, we are prepared to take any and every step in co-operation with Pakistan. My Government will welcome a meeting of Ministers from both countries to discuss ways and means. We must see to it that the disgraceful incidents which took place recently never take place again. They are a scandal ony civilized Government. Secondly, threats of violence which have emanated from Pakistan from time to time, as I have pointed out, must cease. Let Pakistan unequivocally declare along with India that the two countries will never resort to war and will settle all their differences by peaceful means. In this connexion, we welcome the appeal recently issued by Chairman Khrushchev and, as you know, our Prime Minister has warmly endorsed that appeal for the peaceful settlement of territorial disputes. President Johnson has also, in principle, welcomed the

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renunciation of the use of force. Once a better atmosphere prevails, it will be possible - and we are prepared - to discuss with Pakistan all our outstanding differences. We believe in discussion and debate, we believe in the resolution of differences by sitting around the conference table and we will welcome Pakistan to sit with us and resolve our differences. Let me implore Pakistan to remember that we are most anxious that our two countries constituting the sub continent of India, should remain on friendly and cordial terms. The future prosperity and well-being of our two peoples depend on it.

193. *Text of the speech made by Mr. Bhutto (Pakistan) in the Security Council meeting No. 1089 held on 7, February 1964.*

In the first paragraph of his statement at the last meeting two days ago, the education Minister of India uttered the admonition that the security Council is not intended as a platform for propaganda against any Member State. The members of the Council will have had time to study the statement of the representative of India and to judge in what manner be allowed his own dictum.

From the beginning to the end the representative of India, consistently refusing to face the facts and issues resolutely ignoring the arguments presented by Pakistan devoted himself to hurling irresponsible charges against Pakistan and accusing it of the most unbelievable crimes. First, the very fact that Pakistan has dared to come before the Security Council, an organ charged with the primary responsibility for the maintenance of peace, is, in the eyes of India, a misdemeanor on Pakistan's part and evidence of its "agitational" approach.

Then Pakistan was accused of being a theocratic State while India which has witnessed 550 communal riots, since it became independent, is a secular State. India, the resentative of India said, has a modern, rational and secular attitude while Pakistan is reactionary. Pakistan's philosophy, according to him, is that in the very nature of things, Muslims must hate the Hindus

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and the Hindus must hate the Muslims. Pakistan's policy is based on communal hatred and fanaticism and the Pakistan Government, he stated, "deliverately and for set purpose created an atmosphere so that riots should break out in East Pakistan" [1088th meeting, para. 59]. Then turning from accuser to judge, he delivered judgement, saying that "the Pakistan Government cannot be absolved of its responsibility for the death of these inocent people" [*ibid*]. He stated that the real reason why Pakistan was insisting on a plebiscite was : ".....to try and see whether it cannot inflame communal passions in Kashmir by making the inhabitants of that State believe that their religion is in danger, and bring about the recurrence of the terrible events of the partition of India in 1947 : blood-shed, migrations, untold human misery" [1088th meeting, para. 32].

Then again, Pakistan was, in the view of representative of India, playing the Chinese game of weakening India internally and undermining its defence against China" [*Ibid.*, para, 8] in order to prevent India from fulfilling its self-appointed role of saving the whole world from China. The permanenet representative of India had promised on the eve of the meeting of the Security Council that there would be a good deal of mud-throwing at this meeting. Members will agree that the Minister of Education of India has not disappointed the expectations of his Permanent Representative. I reject, with all the emphasis at my command, the false absurd charges that he has hurled against my Government.

On Kashmir itself, what the representative of India had to say was not new. Members who have studied the case will be familiar with all the his arguments on Pakistan's alleged aggression, the absolute right of the despotic Maharajah to sign away the rights of the people of Kashmir, the acquisition by India of the imperial mantle of paramountcy, the three elections held in Kashmir under the surveillance of the four Indian divisions stationed there. These arguments are as contradictory as they are unconvincing. I must nevertheless, for the record, correct the misstatements and distortions with which the representative of India has sought to vitiate the simple issue of

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self-determination involved in the Kashmir dispute. But before I do so, may I be permitted to deal briefly with the grave accusations and charges levelled against my Government and my country by the representative of India.

It is with the utmost reluctance that I turn to the matter of communal riots which recently broke out in my country and in India. In my earlier submission to the Council [1087th meeting] I refrained from dealing at length with the communal situation in order not to worsen the existing grave situation. The Minister of Education of India, by making irresponsible, unfounded and provocative charges against my country, has in effect added fuel to the fire, and I must regret that he should have chosen the path of calumny and slander to bolster India's bad case on Kashmir. I would be failing in my duty if I did not put the record straight on the treatment of minorities in "secular, modern, rational" India.

The Education Minister of India said: "...if we are left to ourselves we will have no communal trouble whatsoever" [1088th meeting, para, 59]. How does he reconcile this statement with the fact that since the Minorities Agreement concluded between the Prime Ministers of Pakistan and India in April 1950, there have been more than 550 riots in India? In fact, hardly a Muslim festival has passed in India since 1950 without the Muslim community being subjected to attacks of communal frenzy in one part of India or another in contrast, there has been complete communal peace in Pakistan, but for two or three riots, until the recent disturbance broke out in March 1961, scores of Muslims were killed in Jubulpore and the Chief Minister of Madhya Pradesh was reported to have said that the city "looked like a cremation ground". Was not India being left to itself then?

In October 1961, the Home Minister of the State of Uttar Pradesh admitted that behind the then current anti-Muslim riots, there was a wide and deep-laid conspiracy. He declared:

"It can go on record that a common pattern is discernible

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> behind all these incidents. Murders were committed in individual knife attacks by young people coming from the section of our society whose members would faint at the sight of blood."

He went on to say:

> "This showed that these people have received training in the art of killing. One would not be suprised, as days pass, if communal incidents increase in number and in intensity."

Did this Indian official say that Pakistan was training these murderes? Could he say that Pakistan was behind the deep conspiracy? Was Pakistan inciting the Hindus of India to kill Muslims? Was not then India being left to itself ?

Speaking in the Indian Parliament Mr Syed Bardudduja, a veteran of thhe Indian Struggle for independence, expressed the agony that the Indian Muslim were suffering soon after the gruesome atrocities of Jubbulpore and Malda were perpetrated:

> "Even in this secular democracy, Mussulmans and all the minorities of India have suffered terribly. We apprehended that minorities would have no quarter, no shelter, no opportunity for self-expression. Politically, socially, culturally, economically and even physically they would be at the merey of forces of reaction. That is exactly what has happened."

Continuing, this member of the Indian Parliament said;

> "Mussulmans have been pursued to the bitter end. They have been tortured with every refinement of cruelty and barbarous savagery. In malignity, in cruelty, in savagery, in criminality, the records of Jubbulpore and Malda surpass any records during the British regime."

This systematic massacre of Muslim followed a pattern which

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was particularly noticeable during the recent riots, when the attacks were aimed at driving the Muslims out of West Bengal, forcing them to seek sheller in East Pakistan. Although a large number of men, women and children were killed, the emphasis was on setting fire to their houses, looting and destroying their shops and industrial establishments so as to deprive them, at once, of their shelter and their means of livelihood. The fact that there have since been open demands by militant Hindu organizations for a population exchange tends to support my Government's fear that the real intention of those responsible for riots is to drive the Muslims out of West Bengal into East Pakistan.

The representative of India accused Pakistan of having incited the recent riots. I do not wish to harrow the Council with a recital of the blood-curdling headlines and reports carried in the Indian West Bengal Press on the regrettable incidents which occurred in Khulna and Jessore. Let us turn instead to the testimony of impartial, foreign observers. As regards the recent riots in Calcutta, here is a report from Calcutta by James Mitchell, correspondent of *The Observer* of London, published on 25 January:

> "While rioters made no great secret of their plans, the police force in the first days seemed always to be every where except in the streets attacked."

He blames what he calls "the black week of Calcutta" on "police laxity" and says that the authorities "let the situation get completely out of hand" and that the result was that about 500 people were killed. According to this report, tens of thousands lost their homes because, after the riots started, interested people paid big sums of money to keep them up, so that landlords would clear their land of poor tenants. Did Pakistan inspire this cold-blooded design?

We hear a great deal about the secular outlook in India. A Calcutta daily, the *New Age*, of 19 January 1264 said:

"Unfortunately the secular parties could not take proper

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initiative in the matter and the so-called nationalist papers fanned up communal hatred. The Jan Sangh and Hindu Mahasbha were already in field whipping up frenzy. All these contributed to the rapid deterioration in the situation."

I had no intention to bring out these gruesome facts but I had been compelled to do so by the allegations levelled against my Government before this Council. I was shocked that the Education Minister of India fell victim to the temptation of quoting highly exaggerated figures of deaths during the recent troubles in East Pakistan on the basis of a Reuters dispatch. The sources in Dacca quoted by the correspondent of Reuters have themselves contradicted the wildly exaggerated figures that were given out. I regret that the Education Minister of India had to resort to the use of unverified reports which he should have known were contradicted. The Pakistan High Commission in New Delhi issued an immediate contradication on 24 January. The irresponsibility of the Indian Government's news media in giving circulation to such false and inflammatory reports earned the well merited stricture of *The Times* of London. In the issue of 23 January, its Delhi correspondent observed:

> "The Indian Government's seriousness in discouraging circulation of news about communal violence in Pakistan was put into doubt today by All-India Radio's treatment of the Reuters correspondent's report from Dacca. The midday news broadcasts made that report their first item and it still figured prominently in bulletins later tonight. All-India Radio is a completely subservient agent of the Government and its treatment of the report must suggest that Delhi is not as apprehensive about dangers of repercussions in West Bengal as its recent experience should have made it."

My Government firmly believes that communal peace and security is an essential condition of civilized life. My Government mobilized all its resources to bring the situation under

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complete control in Pakistan. I had to go into this question at some length, not only to disprove the false allegations made by India, but to emphasize one central fact: It is that the denial of the right of self-determination to the people of Jammu and Kashmir is a constant source of tension. It is embittering the relations between India and Pakistan. As a result of this festering dispute, recurring brutal attacks on the Muslim minority have been taking place in India ever since its independence in 1947.

It is this attitude of the Government of India which has created a vicious climate in Kashmir and in certain parts of India, to which I invited your attention in my letter of 16 January 1964 [S/5517] from which I quote:

> "It is this climate, in which the political, religious and cultural rights of the people of the State are treated with scorn by their Indian rulers that has made possible such criminal acts of sacrilege and vandalism as the recent theft of the sacred hair from the shrine near Srinagar and the attempt to burn a Muslim shrine in Kishtwar in Jammu Province."

Is this same climate which encourages militant organizations in India to launch frequent communal attacks and outrage on the Muslims and call for their expulsion from India in exchange for the Hindu minority in Pakistan. It is this disregard of human rights which is the root cause of the existing upheaval in Kashmir and of the grave communal tension in West Bengal. It all flows from the fact that the Kashmir dispute has been allowed to fester for sixteen years.

While speaking about the eviction of Indian Muslims from Tripura, Assam and the border districts of West Bengal, the Education Minister of India took shelter beh,nd a massive array of census figures. He named the districts of Noakhali, Comilla, Sylhet and Bakarganj, where the relatively slow growth of population is attributed to the migration of Muslim population to India. Of these, Bakarganj has no common border with any

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part of India and can have no relevance to the issue.

It is interesting to note that only three border districts were named by the representative of India, whereas My mensingh, Rangpur, Dinajpur, Rajshahi, Kushtia and others are also border districts, but he carefully left them out. The reasons are not far to seek. The West Bengal districts in which a relatively high increase of Muslim population was shown by him are not contiguous to the Pakistan districts where a slow rate of increase of Muslim population was recorded. Obviously, therefore, there can be no possible connexion between these trends of population growth. It is possible to refute the arguments that he has advanced by quoting extensively from the census reports of India and Pakistan to prove that the case he wants to establish is based merely on a jugglery of figures. Even without going into a detailed examination of the census reports, one can draw certain obvious conclusions from common sense.

A system of passports and visas was introduced in 1952 to regulate comprehensively the movements of Indians and Pakistan is across the border. The Indian authorities introduce a strict system of border checkpoints to prevent the entry of non-Indians through unauthorized routes into Indian territory. These restrictive measures resslted in almost complete stoppage of entry to Assam, Tripura and West Bengal.

Apart from these restrictions, one has to remember the communal feelings and tensions existing at the time of partition of the India-Pakistan sub-continent to appreciate the improbability of large-scale Muslim migration from Pakistan to India. With memories of incredible sufferings, of loss of human lives and destruction of property, it is inconceivable that hundreds of thousands of Muslims, as alleged by India, would surrender the safety and security of their homeland in Pakistan to migrate with their women and children to the uncertainty and perils awaiting them in a hostile land beyond the frontier.

But let us not get involved in a pedantic controversy, for we deal here not with cold statistics but with human tragedy.

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The fact of the matter is that hundreds and thousands of innocent men, women and children have been driven across the border as part of a premeditated and cold-blooded plot to get rid of Muslim citizens from Indian territory bordering on East Pakistan. The special correspondent of *The Times* of London in his dispatch of 5 December 1963 carried a vivid eye-witness account of his experience :

> "In camps and compounds in the Comilla district of Pakistan there are thousands of Muslims who have been forcibly evicted from their homes in India and driven into East Pakistan. The pretext for the eviction is that these people had illegally entered the Indian territory of Tripura . . .and that they have now simply been sent back: but the evidence available from them shows that most were long settled in Tripura, even for generations."

Continuing, he said:

> "But the long-settled Muslims who are expelled come into East Pakistan as broken refugees with nowhere to turn, and the Government here now has about 47,000 on its hands. The evictions began in the middle of last year and continued at a rate of hundreds each week, the flow being augmented now by those Muslims who flee from the inimical climate apparently created in Tripura by the mass evictions.
>
> "Putting it at its best, the established residents of Tripura, Indian citizens by right, who have been uprooted and dumped over the border with no formalities, or only the sketchiest, are the victims of local authorities in that territory whose excesses are not fully appreciated in Delhi. They may be acting in response to local forces of communal enmity and greed for land, but they are acting with injustice and inhumanity."

The special correspondent of *The Times* went on to say :

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> "Some received 'Show cause' notices warning them that they would be expelled unless they could prove that they had been in India before 1952. They say that they went to court with their papers and were told that the Magistrate would make further investigations—but that a day or two later the police and lorries came to their villages and they were forced in and driven to the border. Others received no notices nor warning before the police vehicles arrived. Some of their papers were kept by the court or destroyed by the police who expelled them . . . ."

And yet the Education Minister of India waxed eloquent about the respect for the processes of law in his country. He said: "I also wish to point out that no one is evicted from India without complying with the provisions of the rule of law." [1088th meeting, para. 75.] In view of what impartial observers have to say about the compliance with the rule of law, I believe further comment is superfluous. Concluding his dispatch, the correspondent of *The Times* said:

> ". . . it is undeniable that a great wrong is being done to the Indian Muslims in Tripura. In considering what it regards as the problem of Muslims settled in that territory who have no legal right to be there, the Indian Government might consider the analogous problem in Ceylon, where the Government would like to get rid of a million Indians."

That is what an impartial observer of a leading British newspaper has to say about the brutal and inhuman methods adopted for the mass eviction of Indian Muslims from Assam, Tripura and West Bengal. The President of the Hindu Mahasabha, Mr. V. G. Deshpande, declared on 15 January 1964 that an exchange of population on Government level was the only way to ensure the safety of minorities in India and Pakistan. He said: "They"—the Hindus—"must be brought to India and the Muslim population in Assam and West Bengal must be sent to East Pakistan". An exchange of population was demanded in public meetings and newspaper editorials in many parts of

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India. All these point towards one conclusion, namely, that there is a move to expel Indian Muslims by illegal and inhuman methods from Indian territory bordering on East Pakistan for no fault of theirs but the fact that they happen to be Muslims.

The Education Minister of India claimed that all these tens of thousands of Indian Muslims who were forcibly evicted from their hearths and homes and pushed across the border into East Pakistan are not Indian nationals. If that be so, India should have no objection to having the facts verified by an impartial inquiry.

Speaking on this matter before the General Assembly of the United Nations on 30 September 1963, I said:

> "I would declare here before you that the question whether these people are being evicted or whether they are infiltrators can be decided by a United Nations inquiry commission, by an international inquiry commission. . . or by any third-party commission agreed to by India and Pakistan. These are ascertainable facts. It can be ascertained by any inquiry commission whether these unfortunate, helpless people driven by the Indian bayonet into Pakistan are Indians or Pakistanis."

We stand by this declaration even now. We are prepared to have the matter examined by an international commission of inquiry. If India's hands are clean, as it claims, let it come forward and agree to an international commission to verify the facts. The truth in this case is that India is guilty of inhuman and brutal treatment of its own citizens on the ground of their religion. It is indeed a sad commentary on its secularist pretensions.

The Education Minister of India stated that the President of Pakistan refused to issue a joint declaration with the President of India to our respective peoples appealing for peace and harmony and that Pakistan, in effect, also rejected the proposal of the Government of India that the Home Ministers of

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the two countries should meet and visit the scenes of disturbance and suggest what further steps should be taken to prevent such happenings.

I have already dealt in my statement of 3 February [1087th meeting] with the subject of a joint declaration by the two Presidents. The President of Pakistan pointed out that he had already appealed to the people of Pakistan to maintain communal peace and harmony and what was really needed was to take deterrent measures against communal and criminal elements which were responsible for the riots in both the countries and to re-establish conditions of security for the refugees of the minority communities to enable them to return to their homes. This action my Government for its part took at once, and the flames of communal disturbance were stamped out in my country.

Pakistan did not reject the proposal of the Government of India for a meeting between the Home Ministers of the two Governments. We have made a positive and constructive response. This is that once order has been restored, the two Ministers could meet in Rawalpindi in Pakistan or Delhi in India to discuss measures necessary to enable the refugees from the communal disturbances, as well as those who have been evicted by India from Assam, Tripura and West Bengal during the last two years, to return to their homes.

It is the policy of my Government to encourage the refugees to return to their homes. My Government is pledged to ensure the security of their lives and property and to restore their confidence. The Indian Home Minister's statement of 29 January that conditions in East Pakistan have become such as to make the migration of Hindus inevitable and that conditions for the granting of migration certificates to them in East Pakistan would have to be eased is bound to have an unsettling effect on them and to encourage their exodus. We regret this statement all the more because communal harmony has been fully restored in East Pakistan. My Government is appehensive

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that if a new influx of Hindus into India takes place as a result of the Indian Policy of facilitating migration, the position of the Muslim minority in East Bengal, Calcutta and, for that matter, in all other parts of India will be further imperilled.

The Pakistan High Commissioner in Calcutta was besieged owing the communal riots in that city by the thousands of Muslims demanding emergency certificate to migrate to East Pakistan. We did not respond. In spite of the carnage which took place in Calcutta, no Pakistani leader made any statement or offered encouragement to Muslims in West Bengal or elsewhere in India to move into Pakistan. In our view, the solution of this problem, I must reiterate, lies in bringing about peace and security establishing a sense of confidence among the minorities and in taking energetic measures for their rehabilitation and resettlement. We seek the co-operation of the Government of India in enabling the refugees to return to their homes.

The representative of India permitted himself to make disparaging remarks about the democratic institutions of Pakistan. May I remind him that each country must fashion its self-governing institutions according to its own genius. It is not necessary for me to cite examples of modern and progressive countries which have found, as a result of their experience, that the system of indirect elections and electoral colleges best meets their political and constitutional requirements. Pakistan is not the only country which elects its President and Parliament by an electoral college. The parliamentary form of government is not the only form of democratic government. Many countries, particularly those of Asia, Africa and Latin America, and even of Europe and the United States, have found the Presidential system to be necessary to ensure their stability and economic progress.

The Education Minister of India called Pakistan "a theocratic State". May I ask him wheather we are governed by a hierarchy of priests? The official name of our State is the Islamic Republic of Pakistan. Does this nomenclature make us

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a theocracy? Several Muslim countries, Members of the United Nations, have the same description or have given recognition to Islam as the official religion of the State. Then are they all priest-ridden? There are also Western European and Latin American States, the Constitutions of which provide a place for Christianity as the established State religion. The representative of India, I am certain, would not on that account classify them as theocracies.

We have often been told that in the Indian Union fundamental rights are guaranteed. This is surely not a unique phenomenon. All Member States of the United Nations are pledged to respect human rights, and it is their general practice to ensure its observance. The Constitution of Pakistan is no exception, and we see no reason to claim any special credit for treating all the citizens of our multiracial, multireligious and multilingual Republic as equals before the law. We do not therefore consider it in the least anomalous that the head of the judiciary of our Islamic Republic should be a Pakistani Christian. The Chief Justice of the Supreme Court of Pakistan is a Pakistani Christian belonging to the Roman Catholic denomination who, under our Constitution, is the final authority in the interpretation of all laws, including the personal and religious laws of the Muslims, who constitute the majority in Pakistan. We have given representation in the highest services of our State to the minority communities whose leaders have publicly borne testimony to the precept and practice of tolerance in Pakistan.

We are told that India is more democratic than Pakistan. Comparisons are odious. But in this context let me take the liberty of quoting the President of India himself, is reported by the *Indian Express* of Bombay of 4 October 1963. President Radhakrishnan is reported to have said:

> "What we have in India today is not real democracy but only a phony democracy. If we are true democrats, which I may say we are not, there would not have been so much of discontented and ill will. Then they would not have

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any kind of nepotism, corruption and communal prejudice which have brought down the country to degradation."

The representative of India also attacked the philosophical and spiritual foundations of Pakistan. He admitted that India and Pakistan are two nations but rejected the "two-nations". The basis of this "theory" is that, because Hindu Society is organized on the religious caste system of antiquity, in which personal status is determined by birth into a particular caste in an ascending and decending series of worth and dignity, we the people of Pakistan wished to have established a State of our own in the contingus Muslim majority areas in the north-west and the north-east of the sub-continent, wherein we could live our own way of life governed by the principles of equality which are enshrined in the religion of Islam. The caste system is by its very nature exclusive. It governs those within its fold from the cradle to the grave. Notwithstanding the fundamental rights spelled out in the Indian Constitution, the caste system has not been made illegal, though untouchability has been forbidden, at last—but only in the law. Distinguished philosophers of history have established that exculusive societies invite disintegration from within. This is what happened in the sub-continent in 1947.

We cannot understand whenever a dispute is involved, India seeks to make reference to its democratic and secular character, although Indian socitey is steeped in the caste system, in a venal system to the exclusion of all other people belonging to all other creeds. It is a system confined to the Hindus. Anyone outside the pale of the caste system is worse than an untouchable, a sub-human. So I say that with such a society, with such a situation, with this mentality prevailing in India, with its treatment of minorities, with the manner in which it has held Kashmir in bondage, there can really be no peace between our two countries. Remove the dispute of Kashmir, and you will find that we canlive in peace and we must live in peace, because it is Kashmir alone that divides us.

It is no use making *ultra vires* references to democracy.

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India displays its democracy is like a sensile person displaying his false teeth. Its democracy is false as the teeth of a senile person who parades his false teeth everywhere. There is democracy in the United Kingdom. Does the United kingdom always make mention of its democratic institutions when it comes into the Security Council ? We have old and established democracies in France and in the the United States of America. Is reference always made to the democratic character of their societies in seeking the adjudication and settlement of disputes ? The United Nations Charter is wedded to the principle of the equality of all nations, irrespective of their internal system. What has the internal system of Pakistan to do with the settlement of the Kashmir dispute ?

Let me therefore now turn to the main question before the Security Council. The representative of India made no attempt to explain the declarations of the Government of India, which I quoted in my last statement to the Security Council, that the so-called accession was only provisional, conditional and subject to ratification by the people of Jammu and Kashmir through a plebiscite under international auspices. Instead he chose to dismiss my submissions as "a mixture of misstatements, omissions of material facts and refusal to face up to the clear provisions of the Indian Independence Act" [1088th meeting, para 17]. A case is not proved by glossing over or ignoring inconvenient facts.

In our previous representations before the Council, we have endeavoured to explain at ample length our position regarding the accession of States to India or to Pakistan. Of course, there was no controversy regarding those States where the Ruler and the people were of the same view, and no conflict arose between India and Pakistan on that score. In all those cases, naturally, the Rules signed the Instrument of Accession to one or the other country, and no trouble ensured either between him and his people or between India and Pakistan. The question arose regarding those States where there was disagreement between the Ruler and his people in regard to accession. On this question, the Indian Education Minister

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made three statements, and I shall invite the Council to examine them not in relation to our arguments, but in the light of the position internationally advanced by the Government of India. I shall take each of those statements separately.

The first statement is :

> "It is significant there was no provision for consisting the people of the princely States concerned. Nor was there any provision that the accession had to be ratified by ascertaining the wishes of the people of the acceding States." [*Ibid.*, para. 11.]

Contrast this statement with the following, quoted from the White Paper of the Government of India issued on 10th August 1948 :

> "The Government of India are firmly of the view that whatever sovereign rights reverted to these States on the lapse of paramountcy, they vest in the people, and conditions must be created in every State for a free and unfettered exercise of these rights."

Or, contrast it with this solemn statement made by the Idnian representative at the 227th meeting of the Security Council :

> "Or the question of accession, the Government of India has always enunciated the policy that in all cases of dispute the people of the State concerned should make the decision."

These are clear words. The position is not only that the people have to be consulted : It is they who have to make the decision.

And how can the statement now made by the Education Minister of India be sustained by the one made by the Indian representative at the 264th meeting of the Security Council ? He said :

> "No doubt the Ruler, as the head of the State, has to take

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> action in respect of accession. When he and his people are in agreement as to the Dominion to which they should accede, he applies for accession to that Dominion. However, when he takes one view and his people take another view, the wishes of the people have to be ascertained. When so ascertained, the Ruler has to take action in accodance with the verdict of the people. That is our position."

By "our position" he means the position of the Government of India. The words are to be noted : "That is our position." This is not the position now advanced by the Education Minister of India.

And what would he make of this statement of the Prime Minister of India himself, his Prime Minister, made at a public meeting in New Delhi and reported by *The Times of India* of Bombay, of 7 July 1952 :

> "In any event, from the start, India was committed to the principle of letting the final word regarding accession rest with the people of the princely States and" let us mark these words – "there could be no getting away from that commitment. In fact, that was why India had accepted Kashmir's accession only provisionally in 1947, pending the expression of the will of the people."

That is the statement of the Prime Minister of India. I could elaborate this argument, but the statement of the Prime Minister of India should at least suffice to take care of the thesis that the Educrtion Minister of India now seeks to foist upon us.

The second statement of the Education Minister of India is :

> "There was no question whatsoever with regard to the religious complexion of the population of the princely States. The question whether one princely State should accede to India or Pakistan was left to the determination of the Ruler of the State." [1018th meeting, para. 12.]

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Is that true ? I ask, was there no question whatsoever with regard to the religious complexion of the population of the princely States ? The Education Minister of India says no. But how was the question answered by his Prime Minister in his telegram of 8 November 1947 addressed to the Prime Minister of Pakistan ? He said :

> "...but it is essential, in order to restore good relations between the two Dominions, that there should be acceptance of the principle that, where the Ruler of a State does not belong to the community to which the majority of his subject belong, and where the State has not accepted to that Dominion whose majority community is the same as the States, the question whether the State has finally accepted to one or the other Dominion should be ascertained by reference to the will of the people."

Then, again, if there was "no question whatsoever with regard to the religious complexion of the population of the princely States", why did the Government of India protest against the accession of the State of Junagadh, which had a Hindu majority, to Pakistan? What did to actually protest about? They said, and I quote from the telegram of the Governor-General of India addressed to the Governor-General of Pakistan on 22 September 1947 :

> " ..Pakistan Government have unilaterally proceeded to action which it was made plain Government of India could never and do not acquiesce in. Such acceptance of accession by Pakistan cannot but be regarded by Government of India as an encroachment on India's sovereignty and territory and inconsistent with friendly relations that should exist between the two Dominions. This action of Pakistan is considered by Government of India to be a clear attempt to cause disruption in integrity of India by extending influence and boundries of Dominion of Pakistan in utter violation of principles on which partition was agree upon and effected...

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> "...possibility of Junagadh's accession of Pakistan Dominion in teeth opposition from its Hindu population of ove eighty per cent has given rise the serious concern and apprehension to local population and all surrounding States which have acceded to Indian Dominion."

Finally, if there was no question whatsoever with regard to the relegious complexion of the population of the princely States, how does one understand the following account given by no other person than Mr. V. P. Menon, the eminent official of of the Government of India who was handling the accession of the princely States to India ? On page 117 of his book, *The Story of the Integration of the Indian States*, Mr. Menon states :

> "Lord Mountbatten made it clear that from a purely legal standpoint there was no objection to the ruler of Jodhpur acceding to Pakistan; but the Maharajah should, he stressed, consider seriously the consequences of his doing so, having regard to the fact that he himself was a Hindu; that his State was populated predominantly by Hindus and that the same applied to the States surrounding Jodhpur. In the light af these considerations, if the Maharajah were to accede to Pakistan, his action would surely be in conflict with the principle underlying the partition of India on the basis of Muslim and non-Muslim majority areas; and serious communal trouble inside the State would be the inevitable consequence of such affiliation."

If a Hindu State wanted to accede to India, India invoked the principle of partition, namely, religious composition and geografical contiguity. When it is a question of a Muslim State acceding to Pakistan, India says that the principles of partition do not apply to princely States. Surely some measure of consistency is essential in all human relations, whether individual or international. If so, how does the distinguished Education Minister of India expect us to regard his statement now that there was "no question with regard to the religious complexion of the population of the princely States"? He stated : "The

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question of religion did not come into play at all." [1088th meeting, para. 14.] Did it not come into play with respect to Junagadh ? And Jodhpur ? And Hyderabad ? It did. So, why should it not come into play with respect to Kashmir?

The third statement of the distinguished Education Minister of India is :

> "...there is no substance in the suggestion that the accession of Jammu and Kashmir was not complete and absolute because the people of that State had not been consulted nor been given opportunity to express their choice."

He added later :

> "Jammu and Kashmir became an integral part of India when the Instrument of Accession was signed and accepted and from that day till today it continues to occupy the same position vis-a-vis the Indian Union and no question can possibly arise of annexing Kashmir or further integrating it into the Indian Union. You cannot make more complete what is already complete." [*Ibid.*, paras. 15 and 16.]

I repeat : "You cannot make more complete what is already complete." That sounds very nice. The key words here are 'complete' and 'absolute'. Contrast these with the adjectives employed by the representatives of India in the past to describe this so-called accession. The representatives of India at that time said in the Security Council, referring to the so-called accession of Kashmir to India : "...it acceded, tentatively, in October 1947" [463rd meeting, p. 20]. The word here is 'tentative', which is far from 'absolute' and 'complete'.

Then again, if the accession was 'complete' and 'absolute' what did the Prime Minister of India say in a telegram he sent to the Prime Minister of Pakistan on 28 October 1947—just after the so called accession ? He said : "In regard to accession

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also, it has been made clear that this is subject to reference to people of State and their decision." It was either absolute and complete or it was subject to reference to the people. The distinguished Education Minister of India says it was the one; the Prime Minister of India says it was the other. Whom is the United Nations to believe? Whom are we to believe ? What does one make of this statement made by the Prime Minister of India on 2 November 1947 :

> "...let me make it clear that it has been our policy all along that where there is a dispute about the accession of a State of either Dominion, the accession must be made by the people of that State. It is in accordance with this policy that we have added a proviso to the Instrument of Accession of Kashmir."

Finally, if Kashmir is an integral part of India, what question is left to be adjusted and adjudicated between India and Pakistan ? What is it that we have been negotiated about, and what is it that we can negotiate about now ? May I here refer to the joint communique issued by the Governments of India and Pakistan at the conclusion of the bilateral negotiations which I conducted on behalf of Pakistan and which were held at the ministerial level between India and Pakistan from December 1962 to May 1963 for six months. The communique said, at the conclusion of the six months of talks on the Kashmir dispute, as follows : ".. the two Ministers recorded with regret that no agreement could be reached on the settlement of the Kashmir dispute." If Kashmir is an integral part of India, and if this integration is absolute and complete, what is this "Kashmir dispute', and what were we trying to settle ? What agreement is there for us to reach ? The distinguished representative of India says, referring to Azad Kashmir, that it is "a part of territory which by International law is as much a part of Indian territory as Bombay or Delhi is". [1088th meeting, para, 8.]

Adept comment on the attitude behind this statement is furnished by another statement of the Prime Minister of India

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made in the Indian Parliament on 26 June 1952. The Indian Prime Minister said then :

> "It is...a matter . of dealing with a situation which is very delicate, very difficult and the decision for which ultimately lies with the few million people in Kashmir—not even with this Parliament . India is a great country . Kashmir is almost the heart of Asia. There is an enormous difference, not only in geography, but in all kinds of factors there. Do not think you are dealing with a part of U. P. [the United Provisional], Bihar or Gujerat..."

The United Provinces or Bihar or Gujerat are Indian states, and the Indian Prime Minister emphasized that there is an 'enormous difference' between these States and Kashmir. The position taken by the distinguished representative of India here is that there is no difference and he states that Kashmir is as much a part of India as Bombay and Delhi.

In the context of the question of accession, the distinguished representative of India stated that when India was partitioned, "a part of the country seceding" constituted itself into Pakistan, and he claimed : ".. the present Government of India was the successor Government to the Government of the United Kingdom. Pakistan was a new State which came into existence" [1088th meeting para. 11]. May I remind him that Pakistan came into existence on the partition of the sub-continent not as a new State but as a co-successor State, together with India, to the British Government in India. The same excerpt which he has quoted from the Cabinet Mission's memorandum of 12 May 1946 speaks of "the succession Government or Governments in British India." This memorandum was published more than a year before partition. At that time it was not certain that the sub-continent would be partitioned into two states; but this was a clear possibility. The Cabinet Mission's memorandum provided for this possibility and hence the reference to more than one successor Government in British India.

It is true that Pakistan was admitted to the United Nations and other international organizations as a new State,

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but this was done by virtue of its express consent under the Indian Independence (International Arrangements) Order of of 1947. In all other respects the same Order provided, as for instance, in regard to the rights and obligations devolving from treaties and international agreements to which undivided India was a party, that both India and Pakistan were to inherit these rights and obligations as successor States of the British Government in India. I would not like to take up the time of the Security Council to adduce further arguments in support of this submission. A reference to the preamble and the various sections of the Indian Independence Act, 1947, will make it clear that the Act speaks of "two Independent Dominions" to be set up in India to be known respectively as India and Pakistan as from 15 August 1947. In passing, may I observe that paramountcy which ended with the entering into force of the Indian Independence Act of 1947 was a doctrine not of international law, but sui generis and, according to British legal authorities, peculiar to the constitutional development of the British Indian Empire.

I pass over the account given by the Minister of India of the circumstances in Kashmir which formed the genesis of the dispute. I do so because the truthful and balanced account of these circumstances is on record in the Sucurity Council, set forth at length in its proceedings. I also do so because it is irrelevant whether one or the other account is true. In terms of the Charter of the United Nations and in terms of the moral and legal obligations of States, the contraversies which existed before the acceptance of an agreement cannot be revived in connexion with the implementation of the agreement. Once an agreement is reached, you cannot revive the controversy which was resolved by the agreement. The controversies closes as soon as there is an agreement in the Kashmir dispute, the allegations of aggression by the two parties against each other were debated in the Council and in the United Nations Commission on India and Pakistan before that body's resolutions were adopted. The adoption of these resolutions and their

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acceptance by the two parties evidently disposed of the continuous issues which existed prior to them.

You cannot enter into an international agreement and then refuse to implement it on the basis of the issues which the agreement is meant is close. The assumption that the resolutions of the Commission could not be repudiated by either party without dishonouring an international agreement and committing an act inimical to peace has been confirmed repeatedly by numerous declarations made on behalf of the Government of India. The Indian representative, at the 608th meeting of the Security Council, said :

> "We cannot be a party to the reversal of previous decisions taken by the United Nations Commission with the agreement of the parties." [608th meeting, para. 36]

At the 769th meeting of the Council, then representative of India said the following :

> "I said the other day that this engagement bound our two countries I should like to say that there are three parties engaged in this whole process.
>
> "The Security Council is a party to the resolution of 13 August 1948...." [769th meeting, paras. 77 and 78.]

The same representative stated the following at the 773rd meeting of the Council :

> "The resolution of 17 January 1948, and the resolutions of the United Nations Commission for India and Pakistan, the assurances given, these are all resolutions which carry a greater weight—that is because we have accepted them, we are parties to them, whether we like them or not" [773rd meeting, para. 83.]

This, in brief, has been the status of the agreement arrived at between India and Pakistan through the effort and authority

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of the United Nations. The obligatory character of these resolutions arose not only from the consent of the parties, but also from the fact that the agreement "enshrined" the principle of self-determination which is integral to the concepts of Chapter. It was further enhanced by the fact that it was only on the basis of the acceptance of the two resolutions that the cease-fire agreement was reached between India and Pakistan and the people of Kashmir who were fighting against the Indian army were persuaded to lay down their arms. Now the representative of India says that the—

> "...two resolutions of the Security Council dealing with plebiscite were conditional and contingent on Pakistan vacating its aggression, and that condition not been complied with. It is really more than a condition. It was the very basis on which these two resolutions were founded, and the condition not having been complied with and the basis having disappeared, these resolutions are no longer binding on us. In any case, by the passage of time and various factors intervening they have become obsolete." [1088th meeting, para. 33.]

I dealt, I hope sufficiently, in my statement to the Security Council on 3 February [1087th meeting] with this theory of passage of time to show how untenable it is. I shall not, therefore, dwell on the subject any further, apart from adding that to characterize the decisions of the Security Council as obsolete shows what little importance India attaches to this extremely important organ of the United Nations.

The Government of India accepted the resolutions of the United Nations Commission of 13 August 1948 and 5 January 1949 providing for a cease-fire, a truce agreement, and a plebiscite in Jammu and Kashmir to determine the question of its accession to India or to Pakistan after—and I stress "after"—this question of aggression had been considered. The question of a conditional and contingent acceptance of those two resolutions, therefore, does not arise. The Security Council is fully

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aware that Pakistan is not required by the terms of the two resolutions to make a unilateral and unconditional withdrawal of its military forces from the State. The withdrawals have to be reciprocal and synchronized in such a manner that at the end of the process, while all the armed forces of Pakistan have left the state, the bulk of the Indian armed forces have also vacated the State. The obligation of Pakistan to withdraw comes into force and operation only after the conclusion of a truce agreement under the resolution of 13 August 1948, which provides for a synchronized withdrawal in the manner and to the extent stipulated.

Who is responsible for the deadlock with respect to the truce agreement, that is, with respect to the demilitarization of the State ? India balked at the synchronization of the withdrawal of the forces on the two sides. India withheld its cooperation in formulating a truce agreement. India refused to help in establishing conditions which would involve the complete withdrawal of the Pakistan forces from Kashmir. India rejected the proposal for stationing a United Nations force there for the purpose. After having done all those things, India began to complain that the Pakistan forces had not withdrawn. Certainly it requires no "deep knowledge of law", to quote the expression of the Education Minister of India, to understand that a party cannot challenge the binding character of an agreement by pleading its own failure to perform it.

India has always charged Pakistan with the responsibility for this deadlock, while refusing to submit its assertion to impartial secrutiny by investigation or to limited arbitration. In my statement of 3 February I referred to the offer made by Pakistan to the Security Council in 1962, that if an impartial determination should show that Pakistan is in fact responsible for the situation, my Government would rectify the default "through the speediest method at the earliest possible moment so that the way may be opened towards full implementation of the resolutions" [1008th metting, pasa, 166]. The fact that India has rejected this offer shows that its accusation against

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Pakistan is only a pretext for continuing its unlawful occupation of the State and its refusal to enable the people of Jammu and Kashmir to exercise the right of self-determination.

But even if we might suppose for a moment, for the purpose of argument, that there is some strength in this allegation of non-compliance by us, what is its effect ? Any infraction of Pakistan cannot be allowed, in fairness, to rob the people of Kashmir of the right to decide their future which they have been assured by the resolutions of the United Nations Commission on India and Pakistan. Surely, the people of Kashmir connot be penalized for the faults of Pakistan.

If you ponder this consideration, you will realize that the entire case of the Education Minister of India rests on the exclusion of the rights and interests of the people of Kashmir. He wants to convert the whole issue into a pseudo-legal one between India and Pakistan and make it void of all human and moral significance. I say "pseudo-legal" advisedly because, if the representative of India were serious in formulating the legal issues implicit in the dispute, then they would also be prepared to accept their determination by a competent authority. But they merely try to give it a legal character in order to confuse issues and to divert attention from the rights and interests of the people of Kashmir. This reflection is sustained further by their repeated allegations of aggression against Pakistan.

What is there in this allegation that can be at all relevant to the solution of the problem from a human point of view ? The question whether Pakistan did or did not commit aggression in Kashmir can be answered only by the people of Kashmir. For, if Pakistan did commit aggression in Kashmir, then evidently it was the people of Kashmir who were its victims. Surely then, India should be insistent on an unfettered plebiscitd in Kashmir which would enable the victims to return an overwhelming verdict against the aggressor. That it is Pakistan that seeks this plebiscite, and India that rejects it, shows how much truth the Government of India feels there is in its contentions. It proves which of the two parties bears the bur-

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den of guilt. Pakistan has nothing to hide : it is prepared to stand the light of day, which means a clear and open ascertainment of the will of the people of Kashmir. It is India that seeks to ensure that that light should never dawn. But the light of day will dawn.

In regard to the measures of annexation of the State of Jammu and Kashmir, to which I drew attention in my letter to the President of the Security Council of 16 January 1965 [S/5517], and in my statement of 3 February, the distinguished representative of India has extolled the alleged benefits that those measures would confer upon the people of Jammu and Kashmir. The point that I have the honour to make in regard to these measures is not that they are or are not a blessing to people of Kashmir but that they are being imposed by an unlawful autherity, in disregard of the injunctions of the Security Council, as set forths in the resolutions of the Council of 30 March 1951 and 24 January 1957. I would request the Security Council to note that the Government of India remains impenitent in regard to the further extension of such measures ; and, on the contrary, as declared by the representative of India, it is set on imposing them.

This brings us to the heart of the problem with which, in our submissiion, the Council is faced in regard to the India-Pakistan question. On the one hand, the representative of India says that Pakistan has "no *locus standi* whatsoever to make any complaint with regard to what India is doing" in Kashmir, that "no amount of declamation from Pakistan will deter the Government of India" from proceeding to further implement its designs of annexation of the State, that the resolutions of the United Nations Commission for India and Pakistan "have become obsolete" and that the Government of India will ' under no circumstances agree to the holding of a plebiscite in Kashmir".

On the other hand, the representative of India makes an offer to "discuss with Pakistan all our cutstanding differences",

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The question is : How can the offer be taken at all seriously if the position of the Government of India is as the Indian representative decribes it ? How can these differences be resolved if the Government of India maintains its rigid position, as it did during the bilateral negotiations of 1962-1963 ? These negotiations failed, as did all negotiations before. The Government of India says that mediation will not help. Now, the representative of India adds that : ".. the passing of resolutions"—by the Council .."will not be helpful. It is likely to aggravate feelings." The Government of India has taken the rigid position that it will not agree to submit to limited arbitration the points of difference that exist between the parties over questions of fact in regard to the implementation of the international agreement on Kashmir.

I would like to put the question before the Council : If negotiations have repeatedly failed and it is impossible for them to bear any fruit, if the Government of India is averse to mediation, if it rejects limited arbitration, if it warns the Security Council's passing any resolutions, then is not the position this that all avenues of peaceful settlement are barred and closed to us ?

This brings me to India's offer of a so-called "no-war declaration". We have said again and again that we have already signed a "no-war declaration" when we pledged our adherence to the United Nations Charter. The representative of India asks if we have any mental reservation. Did India have mental reservations when it signed the Charter of the United Nations? If not, what is the necessity of a "no-war declaration"? What is needed is not another declaration but to devise specific methods for the settlement of the Kashmir dispute. This would remove the sole cause of conflict between the two countries.

We have been trying to impress this point on the Government of India since 1950, when we proposed "no-war declaration" which would contain provisions for negotiations between

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India and Pakistan, and, in the case of the faiture of negotiations, for recourse to mediation and in the event of the failure of mediation, for the submission of the points of dispute to either an appropriate arbitration or judicial determination. To our regret, and to the misfortune of our peoples and, above all, of the people of Kashmir, the Government of India has persistently refused to accept our offer and to recognise that a "no-war declaration" is a mere platitude unless it is accompanied by a simultaneous commitment to the use of methods for the pacific settlement of disputes.

While our position has been greatly misrepresented in the past, it is gratifying that the principle for which we have sought to gain acceptance are now finding expression in the dialogue between the heads of Government of the United States and the Soviet Union. In his recent statement regarding the peaceful settlement of territorial disputes, Chairman Khrushchev said:

> "Life shows that the majority of territorial disputes are fraught with the danger of complication of the relations between the parties with the possibility of a serious armed conflict, and that they consequently constitute a potential threat to universal peace."

He added:

> "It it that the Soviet Union proposes to cross out with one stroke all territorial issues between States, to abandon all attempts to settle them as if these issues do not exist at all? No, this is not the point. We realize that some countries have weighty reasons for their claims."

He continued:

> "A peaceful settlement of territorial disputes is also favoured by the fact that in the paractice of international relations there already exists a store of improved methods of peaceful settlement of outstanding issues: direct negotiations between the States concerned, use of good offices, request of assistance from international organization... "

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On this basis, Chairman Khrushchev proposed an agreement which should include "an undertaking to settle all territorial disputes exclusively by peaceful means, such as negotiations, mediation, conciliatory procedure, and also other peaceful means at the choice of the parties concerned in accordance with the Charter of the United Nations."

Let us take this statement of the Chairman of the Council of Minister of the USSR and apply it to the Kashmir dispute, even though this dispute hinges on a people's right to self-determination. According this statement, it is not at all justifiable to abandon all attempts to settle the dispute, as if it did not exist at all. But that is precisely what India seeks to have the Council do. According to this statement. there is to be an undertaking to settle the dispute by peaceful means. But after the failure of these means, that is, negotiation, India blocks the other means. And still India proposes a "no-war declation" ?

Let us now refer to the statement of President Johnson of of the United States made in his letter of 18 January 1964 addressed to Chairman Khruschev, in which the President proposes the following "guideline" to implement the principle of the renunciation of the use of force for the solution of international disputes:

> " .. the parties to any serious dispute ..shall seek a solution by peaceful – means resorting to negotiation, mediation, conciliation, arbitration, judicial settlement, action by a regional or appropriate United Nations agency or other peaceful means their own choice.

How does this apply to the question before us ? Since negotiation between India and Pakistan has failed, is India prepared for limited arbitration or judicial settlement of those points of difference between the parties which are capable either of arbitration or of being judicially determined ? India has rejected these means again. India is even rejecting today the assistance of the United Nations in the settlement of this dispute. And yet India proposes a "no-war declaration" !

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> The President of the United States adds in his statement : "The prevention of wars over territorial and other disputes requires not only general principles but also the 'growth and improvement' regarding the machinery and methods for peaceful settlement. The United States believes that the peace-keeping processes of the United Nations – and specifically its Security Council—should be more fully used and strengthened "

It is these peace-keeping processes of the United Nations which India spurns with regard to Kashmir. When it came to the question of how the forces of India and Pakistan could be withdrawn from the State of Jammu and Kashmir, and the security of the State preserved, we proposed the stationing of a United Nation force which would be impartial to both India and Pakistan. India rejected the proposal and threatened that any country which would attempt to inject a United Nations force in Indian-occupied Kashmir would be regarded as unfriendly to India. We went further and conveyed our acceptance to the United Nations representative in 1958 of his suggestion that the possibility of stationing a United Nations force on the Pakistan side of the Jammu and kashmir border be examined to ensure the security of the area after the withdrawal of the Pakistan forces. India said that it would "regret" the stationing of such a force in the territory of Pakistan. This India made it impossible to have recourse to the peace keeping machinery of the United Nations for a solution of the Kashmir dispute. What is more, India obstructs even a resolution of this Council. And yet India proposes a "no-war declaration" !

There is another important consideration involved here with respect to India's offer to "talk with us to resolve our "differences". Any impartial observer will note that the word "differences" is being significantly used here. Its intent can be nothing but to confuse the issues. For, after all, what "differences" are there except the Kashmir dispute ?

There may be many minor differenees between India and Pakistan, as there would be between any two neighbouring

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countries, but none of them has presented a major obstacle. There is the question of the minorities, for instance, but that is obviously within the scope of the domestic responsibility of each Government. The minorities in India can be protected only by the Government of India, and the minorities in Pakistan can be protected only by the Government of Pakistan. What room is there for any international mediation to bring about any tangible improvement in this regard? Apart from each Government taking firm action to give its minorities the fullest sense of security, what is required here is co-operation between the two countries to enable the refugees to return to their homes. Even more, there should be an over-all improvement in the relations between India and Pakistan and in the development of a fraternal spirit between the Hindus and the Muslims in the two countries. But a lasting improvement can take place only with the settlement of the Kashmir dispute. India would evade this settlement and yet talk of resolving "differences". Its position is, I am constrained to say, so transparently disingenuous that it cannot possibly delude anyone.

The representative of India professed not to believe the sentiments I expressed the other day regarding the peaceful settlement of international disputes. He accused Pakistan of indulging in threats of violence. The Kashmir dispute has been before the Council for sixteen long years. Numerous efforts have been made during these years to reach a peaceful solution of the problem. No less than twenty different proposals have been made at one time or another by eminent personalities, including the president of the United States and Prime Minister of the United Kingdom, in order to bring about agreement India and Pakistan. Every one of these proposals was accepted by Pakistan. Every one of them was rejected by India. If this does not constitute proof of Pakistan's willingness to seek peaceful settlement of disputes, then I am at a loss to know how to satisfy India.

It was the Defence Minister of India who declared that

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India had not adjured the use of armed force and that it reserved the right to resort to force when its interests so demanded. It was the same Defence Minister who publicly described Pakistan as India's "enemy number one". We have come here not with a threat, but with an appeal – an appeal to you to remember that this Organization was established "to maintain international peace and security,...to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace". We appeal to you to remember that the history of mankind has been marked by war and violence, that if this Organization in which men have placed their hopes for future peace turns a deaf ear to the pleas of the down-trodden, then what hope is there for peace in our time ?

For India, the situation is simple. It is in possesion of the major part of the State of Jammu Kashmir and would like nothing better than to be left alone. But we seeing our kith and kin, our flesh and blood, suffer tyranny and oppression, shall we remain silent spectators ? We who can see and feel the surge of a people determined to be free, shall we not warn of the consequences and dangers of letting the situation drift like this ?

The representative of India has sought to blame Pakistan and the conclusion of the Sino-Pakistan boundary agreement for the failure of the bilateral talks which took place between our two countries in 1962 and 1963. He goes on to charge that the talks were finally broken off by me in spite of all efforts on the part of his Government to keep them going. Let me place the relevant facts before the Security Council.

In pursuance of the policy of the Government of Pakistan to promote friendly relations with all nations of the world, and in particular with those which are its neighbours, we concluded boundary agreements with Iran, Burma and to some extent even with India. It was in pursuance of this policy that the Govern-

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ment of Pakistan formally proposed to the Government of the people's Republic of China in March 1961 that the two Governments should enter into negotiations to reach an understanding on the location and alignment of the non-demarcated border between the Chinese province of Sinkiang and the contiguous areas, the defence of which is the responsibility of the Government of Pakistan.

The Government of the People's Republic of China made an affirmative response at the end of February 1962, and a few months later, in May, a joint communique was issued by the two Governments stating that they had decided to enter into negotiations to reach an understanding on the boundary question on the basis of mutual accommodation and in the spirit of friendly relations between neighbours. The negotiations commenced in Peking a few weeks before the outbreak of the Sino-Indian border conflict, in October 1962. That was a conflict between two powerful nations of the East. That was a crisis which not of our making. We could neither prevent it nor influence its course.

When the joint communique of the President of Pakistan and the Prime Minister of India was issued on 29 November 1962, agreeing to make renewed efforts to resolve the Kashmir dispute on a just and honourable basis, India knew full well that Pakistan and China had commenced negotiations on a boundary agreement in Peking much earlier. On the eve of the commencement of the bilateral talks in Rawalpindi, on 27 December 1962 complete agreement in principle between Pakistan and China on the alignment of the boundary between Sinkiang and the contiguous areas, for the defence of which Pakistan was responsible, was announced. We took this course before the bilateral negotiations with India commenced. Had we not done so, the Government of India would have accused us of withholding this information and thereby acting contrary to the spirit of the joint communique of 29 November 1962. The Peking negotiations took their course. I signed the agreement in Peaking on 2 March 1963.

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The representative of India calls the conclusion of this boundary agreement a "provocation" and gives credit to his Government for not breaking off the Kashmir negotiations with Pakistan. He accuses me of this action. In May 1963, during the last round of talks, I repeatedly told the Indian Minister, Sardar Swaran Singh, the leader of the Indian negotiation team, that I would be willing to stay on in Delhi if he was at all prepared to consider the Pakistan suggestions to break the complete deadlock that had been reached since the third round. I got no response. Therefore the negotiations ended.

The representative of India has thought it fit to accuse us of carrying on "flirtations with China" and that "Pakistan does not want India to be strong; it wants to weaken India both internationally and domestically". Mr. President, was this remark about "flirtations with China" meant for your ears? Was it meant for the ears of everyone in this Council? Obviously not. It was supposed to be a dialogue. However, I should like to say that no one in this Council is so innocent as not to know the difference between an ally and an opportunist. We are allies, we are committed in two defence alliances with our friends, and we stand by those commitments and alliances. We take the advantages and the disadvantages of alliances. We take the benefits and non-benefits of alliances. We are willing perhaps to face nuclear annihilation for a common cause and common destiny and common values. Perhaps one of the reasons why no progress has been made in the settlement of the Kashmir dispute is because we are committed firmly to our alliances. No one then can delude any body that Pakistan is flirting with Communist China. We have a boundary agreement with all countries, with Burma, with Iran. China happens to be our neighbour as well and, as with all others, we have concluded a boundary agreement with that neighbour in the interests of peace and security and stability to remove all possible sources of friction, so that peace is consolidated, so that there is not a repetition of the conflict that India is involved in with so many countries. This was in the interest not only of our alliances, this was in the interest of world peace.

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We have recognized reality ; many countries have recognized the reality. Have they been accused of flirting with Communist China ? May we remind the representative of the Government of India of the ten years of seduction that existed between the Government of India and the People's Republic of China ?

We here in this Council are accused of flirtations with a neighbour merely because we have normal relations, but no one in this Council is so naive as to be taken in by this propaganda of the Government of India, and those friends and allies of ours, whom we stand by firmly and resolutely, know it better than anyone else. What is this flirtation ? When the *Pancha Shila* was proclaimed by India after it had reached agreement with China over Tibet in 1954 as the magic formula which would ensure world peace in our time, that was not flirtation. If slogans of "Chini Hindi Bhai Bhai" [the Chinese and the Indians are brothers] rent the Indian skies for years, that was not flirtation. But when Pakistan concludes a boundary agreement with China in the interest of peace and tranquility in Asia, that becomes flirtation. It is obvious that India has a double standard of international conduct, one for itself and quite another for Pakistan.

We are accused of weakening India domestically and internationally. I have dealt sufficiently with the domestic aspect. How have we weakened India internationally ? Must we remain on unfriendly terms with India's neighbours because India's relations with most of them are unfriendly ? It is not alone with Pakistan that India has differences. India has differences with almost all its neighbours. If those differences had been only with Pakistan, then perhaps there might have been some blame that could be apportioned to Pakistan. But apparently India is right in every case and the rest of the world—and in particular its neighbours—is wrong in every case.

We are accused of having given away to China as a result

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of the boundary agreement 2,000 square miles of Kashmir. I think the representative of India for reducing the charge to this more modest dimension. Immediately after the conclusion of the boundary agreement, the Prime Minister of India stated in the Indian Parliament on 5 March 1963 that Pakistan had "surrendered" 13,000 square miles of territory to China. Now we come down to 2,000 square miles. The fact is that Pakistan did not surrender a single inch of territory to the People's Republic of China.

The representative of India has also asserted that the people of Kashmir were perfectly happy under the benevolent rule of India and should not therefore be given the right of self-determination. He told the Council that the revenue of the State of Jammu and Kashmir had increased ; so had food production. There were more schools, more hospitals, better roads, electricity and so forth, than there were ten years ago. This glowing report, permit me to say, reminded one of nothing so much as an account of its administration of a territory given by a colonial Power before the Trusteeship Council. The argument that the people are well fed and happy under foreign rule, that the benevolent ruler knows what is best for the people and that those who speak for freedom are disgruntled agitators is one with which this world Organization is all too familiar. How many times have we not heard the Foreigh Minister of South Africa stand at the costrum of the General Assembly and extol, in terms of hospital beds, schoolrooms, roads, kilowatts and megawatts the benefits brought about by his Government to the indigenous people of South West Africa ? Like the Education Minister of India, the Foreign Minister of South Africa too feels that if only his Government were left alone, all would be well. He too would like the world to believe that those who decry the denial of human rights to the people of South Africa and South West Africa are agitators uninitiated in the ways of Christianity and democracy and secularism, and involved in an international conspiracy against South Africa and the peace of the world. The number and diversity of reasons put forward by the representative of India for not

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fulfilling the pledge given by his Government are so great that it is not easy to follow the thread of his argument.

We have always considered Kashmir to be a vitally important question because it is, above all, a human question on whose just and honourable resolution depends the fate and future of nearly 600 million people who inhabit the India-Pakistan subcontinent. It is the Indian pretension the Kashmir is a symbol and guarantee of their secularism. I venture to submit that Kashmir is a test of the ability of the world community to resolve disputes through peaceful means. If Kashmir is to be a symbol and guarantee, let it be the symbol of the willingness of nations to solve disputes through peaceful means and a guarantee that justice will be done to all States and all people, big and small.

The Kashmir dispute has persisted for many years. The complexities that surround it are the complexities of politics and powers. The issue involved is simple and clear : the right of a people to self-determination and the obligation of States to honour international commitments. We heard a scholastic discourse the other day from the Education Minister of India on the meaning of the word "self-determination". To those of us in these halls who fought and struggled for this right, to those of us who symbolize by our presence here the triumph of this principle, the meaning of self-determination in quite clear.

Pakistan is not playing with the idea of self-determination when it talks of Kashmir any more than whem it speaks of self-determination for Angola, Mozambique, Rhodesia and South West Africa. "What is self ?" asked the representative of India, Mr. Chagla, the other day, as if he were unaware of the commitments given by his Government to the people of Kashmir, to Pakistan and to the Security Council. This is how the Prime Minister of India, his Prime Minister, answered the question on three different occasions. In 1947, in a broadcast to the Indian nation, Mr. Nehru said :

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> "We have declared that the fate of Kashmir is ultimately to be decided by the people. That pledge we have given . not only to the people of Kashmir but to the world. We will not and cannot back out of it."

In 1951, in that unfortunate city of Srinagar in which blood is flowing at this very hour while we gather here, he declared :

> "I want to repeat the the Government of India will stand by that pledge, whatever happens. That pledge itself stated that it is for the people of Kashmir to decide their fate without external interference."

Then, in the Indian Parliament, in February 1951, the Prime Minister of India declared :

> "We have given our pledge to the people of Kashmir and subsequently to the United Nations. We stood by it and we stand by it today. Let the people of Kashmir decide."

The words are simple, their meaning clear—"Let the people of Kashmir decide." There is no equivocation here, no quibbling about what is self-determination, no fear that the unity, solidarity and integrity of India was at stake.

Yet, now we are told that the right of self-determination is something the countries of Africa and Asia ought to fear. In his short lesson on the history of the United States, the representative of India recalled for us the bloody Civil War fought in the United States to prevent the South from seceding. The analogy is inaccurate since Kashmir is not a part of India trying to secede, nor a slave-owning society attempting to retain slavery. Kashmir is an entity and a people, and to quote Mr. Nehru, it is a people "with a soul of its own and an individuality of its own" to whom the promise was made sixteen years ago that it would be free to decide its own future. The interesting and revealing feature of the analogy drawn by the representative of India is that he

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obviously sees the situation in Kashmir as one in which an unwilling people have, by force of arms, to be held within the Indian Union for the fulfilment of some high and noble purpose of which India is the self-appointed instrument.

Pakistan has come here not to seek your support for the right of a minority to secede from the Indian Union. It comes to seek a reaffirmation of the pledge given to all the people of Kashmir that they will be enabled to decide the future of their land. The people of Kashmir are not an Indian minority. They will never by an Indian minority. "Kashmir is not the property of either India or Pakistan. It belongs to the people of Kashmir", and the people of Kashmir alone will decide as to what their future affiliation and course of action will be. The words I have just spoken once again are the words of the Prime Minister of India.

The Education Minister of India tried to raise the spectre of fragmentation of the States of Africa and Asia, many of which have minorities within their borders, if the principle of self-determination were to be applied. On previous occasions, Indian spokesmen have made a transparent bid for African sympathy by comparing Kashmir with Katanga. It would be naive for me to enter into his game, but let me say that if Kashmir is Katanga, then its despotic Maharajah, whose forefathers purchased the valley and its people from the British for a handful of silver, is the Tshombe of Kashmir. The representative of India was outraged when I referred to the colonial nature of India's hold over Kashmir. Yet when we hear him hold forth on the complexities and dangers of self-determination, when we hear him extol the virtues of multi-racialism, do we not hear echoes of the sentiments expressed by President Salazar of Portugal in his declaration on Africa ?

In his broadcast of 12 August 1963, Mr. Salazar asked the following questions :

"If self-determination aims fundamentally at verifying the

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assent given to the form of state or of government under which populations live, it is not understood how there can be a single method of achieving this purpose or of determining that assent, the single method being a plebiscite following the illegitimate demands of the United Nations."

According to Mr. Salazar, Angola and Mozambique are an integral part of Portugal because Porguguese law says so, and any attempt to ascertain the wishes of the people of Angola and Mozambique is to be viewed as a dangerous negation of the noble and high-minded policy of multi-racialism which Portugal has been attempting, for the last 500 years, to follow in Africa.

The representative of India considers that the future of the world depends on the evolution of multiracial nations and States in different parts of the world. Perhaps—that may be so ; it is not a contention with which we quarrel in principle. Pakistan itself is a country in which live people professing different faiths, speaking different languages, belonging to diverse racial origins. Our difference on this matter with India —as with Portugal – is that we believe that the evolution toward multi-racial States and societies should come about not by force, not on the basis of legal fictions, but on the willing consent of the people. If this is a reactionary policy, then we plead guilty.

The representative of India sought to enlighten us about India's crusade against imperialism and colonialism. He claims, I venture to submit, would have been far more convincing if, in the same statement, he had not built his whole case regarding Kashmir on the rights of the ruler, a feudal chief, a tyrant who had been protected from his own people only under an imperialist dispensation. Moreover, it is unfortunate for the claims of the representative of India regarding India's anti-imperialist mentality that when he wants to prove Kashmir's affiliation with India, he cites the evidence that Kashmir was a part of the empire of Emperor Asoka.

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Surely, not only Kashmir but the whole of Pakistan and most of Afghanistan were included in the empire of Asoka. And it is fatal for Mr. Chagla's thesis that the political thought of modern India has been articulated in other terms by her most prominent writers and authors. "The small national state is doomed"-- these are not anti-colonialist words : they are the words of Mr. Jawaharlal Nehru in his book, *The Discovery of India*. And India's ambitions are well expressed by the distinguished Indian author and diplomatist, the late Mr. K.M. Panikkar who on page 16 of his book *India and the Indian Ocean* writes :

> "Our vision has been obscured by an un-Indian wave of pacifism. 'Ahimsa' "- non-violence—" is no doubt a great religious creed, but that is a creed which India rejected when she refused to follow Gautama Buddha. The Hindu theory at all times, especially in the period of her historic greatness, was one of active assertion of the right, if necessary through the force of arms...To the Indian ocean, we shall then have to turn, as our ancestors did, who conquered Socotra long before the Christian Era, and established an Empire in the Pacific ."

Surely the attitude that is projected here is one of expansionism, an attitude that would extend India's hegemony from Somalia to Indonesia, and from the Hindu Kush to the Mekong River, that is, over all countries and terrstories touched by the waters of the Indian Oceans. It is, I submit, hardly an anti-colonialist attitude.

Who has not heard of the epic freedom struggle of the peoples inhabiting the sub-continent ? For long years all of us fought side by side, although even while the struggle continued, the present leadership of India opposed, tooth and nail, the right of Pakistan to be a free and independent country. It pains us, therefore, that a country so recently liberated from foreign rule, should itself now employ the arguments and

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manoeuvres associated with colonial powers to deny the priceless gift of freedom to the people of Kashmir.

The representative of India stated that democracy, like charity, must begin at home. I would remind him that this is true of all virtue and that self-righteousness is no substitute for righteousness. He asserted that India has fought unceasingly in the United Nations for the cause of freedom in Asia and Africa. I do not think that it is even necessary for me to remind the members of the council of the humble contribution that Pakistan itself has tried to make to the struggles of the peoples of Asia and Africa to free themselves from foreign domination. We take no credit for this. We seek no credit for it. It is our duty. It is our responsibility to world peace and to anti-colonialism. It is a natural thing. It is a normal thing ; it is not a phenomenon. Nor do we wish to suggest that Pakistan's impact has been of a singular or decisive nature. The credit must go in every case to the people themselves and to their leaders who fought and struggled, even as the people of Kashmir are doing today.

How can India reconcile its record in Kashmir with the role it sees for itself as the leader, the prime mover, and the inspiration of freedom movements all over the word? Those of us who have worked in the United Nations on these problems, know full well the equivocations and hesitations of India whenever the question has come up of self-determination in any part of the world.

I am afraid that, in his zeal to contradict my statement, the distinguished representative of India forgot to read it carefully. He attributes to me some pacans of praise with regard to Sheikh Abdullah. Actually, though I cannot fail to honour the suffering and admire the sacrifiec of Sheikh Abdullah since 1953, the laudatory phrases about him that were contained in my statement were not mine: they came from the Prime Minister of India and they were all within quotation marks. If the distinguished representative of India contradicts them, he con-

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tradicts them, he contradicts his own Prime Minister and does not contradict me. Then, he claims that the trial of Sheikh Abdullah has been with due process of law. This claim can be judged from the following report published in *The Times* of London on 30 September 1963:

> "In June, the senior prosecuting counsel, Mr. Pande retired from the case. He said that the money for his fees could be better used. The trial, he said, could go on for another five to seven years."

It can also be judged from the letter addressed to the Prime Minister of India by fifty members of the Indian Parliament in September 1963. The report of this letter, published in The Times of London in the same issue said:

> "In view of the adverse effect which the trial of Shaikh Abdullah and his associates was having over seas and of 'the colossal and abnormal amounts believed to have been spent' on the case, this was the 'opportune and favoarable time' for the withdrawal of the charges, the members argued.
>
> "If the Government of India could find a graceful and politically safe way of withdrawing the charges against the Shaikh they would need no urging by the Opposition. Although the interminable proceedings in Jammu lend themselves to forgetfulness, they sit uncomfortably on Delhi's political conscience and, quite apart from the fate of the Shaikh himself, there are many who deplore the effect of this transparently political trial on the independence and self-confidence of the Indian judiciary.
>
> "If Shaikh Abdullah could be brought to bind himself not to take up again the cause of an independent Kashmir or of a plebiscite to decide its future, Delhi might be pleased to release him. The Shaikh himself has said that he holds the key to his prison but will not give the assurances that are demanded."

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But the Sheikh released and calling for a change in the present status in Kashmir would be an upsetting influence, to say the least. This, as I said before, is a report of the letter addressed to the Prime Minister of India by fifty members of the Indian Parliament, and comments thereon.

The representative of India stated in his opening remarks that "no new situation has arisen to aggravate the existing conditions in Jammu and Kashmir" [1088th meeting, para. 4]. There is no alien power occupying a territory against the wishes of its people which will ever admit the existence of a new or troubled situation in that territory. It would require high statesmanship and unusnal admission of facts for India to acknowledge the present situation. What has actually been taking place in the last several weeks in the Indian-occupied area has been, in the words of President Mohammed Ayub Khan, "a spontaneous referendum of the people" in which the people returned an overwhelming verdict against India. Let me quote some further testimony on the new situation in Kashmir. The correspondent of *The Times* of London wrote from Srinagar, on 2 February 1964:

> "Whenever crowds gather—and the sight of foreign correspondents, of whom there are only two just now, can be enough to attract a clamouring mobshouts are raised for Sheikh Abdullah, for a plebiscite, and even for Pakistan ..."

He adds,

> "...but the affair of the hair has brought to the surface all the stored resentments ofthe Kashmir is and the crumbling of the local regime and its replacement by administrators and police from outside—'from India' as a Kashmiri would say—have made it likely that the resentments will now be focussed on Delhi. Discussion of the Kashmir problem in the past has always been comfortably informed with the belief that at least it would not be complicated

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by violent expressions of their own will by the Kashmiris. When the matter is before the United Nations again this week, it may have to be noted that there is a new factor in the old equation, the self-assertion of the Kashmiris."

This is a foreign observer talking of a "new factor in the old equation", but here we have the representative of India saying that there is no new situation.

Then there is the dispatch in *The New York Times* written from Srinagar on 5 February:

"The Government of India was described today as 'completely out of touch with the real sentiments' of the people of the disputed state of Jammu and Kashmir.

"That was the view of several Kashmiri business leaders, including Hindus, in this predominantly Moslem region.

"According to these men, who asked not to be identified, 'since 1954 the Moslem majority of Kashmir has been pro-Pakistan.

"Their view was completely different from that expressed yesterday..." by Lal Bahadur Shastri, the Indian Minister Without Portfolio, after his return to New Delhi.

"Mr. Shastri said that the feeling in Kashmir was 'definitely pro-Indian'.

"'The Kashmiri business leaders, however, insisted that most of the people here were pro-Pakistan."

Here is a record of the opinion in Kashir which serves to refute the Indian representative's suggestion that the unrest is directed solely against the local administration.

The correspondent of *The Sunday Star*, Washington, wrote on 26 January :

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"For four weeks now the Kashmiris, in an impressively disciplined non-violent rebellion, have demonstrated their hostility toward closer links with India and their determination to decide their destiny.

"India's peacemaking overtures and righteous indignation are not an effective substitute for the probably only lasting solution—finally granting the Kashmiris self- determination."

He added :

"The United States cannot now commit itself to a long-term arms aid to India within the next few week, as it has planned to, without seriouly questioning the possible repercussions of what amounts to indirectly supporting India's virtual colonial overlordship of Kashmir."

In the same dispatch, the correspondent says that "the Indian Government has not chosen to reveal a true picture of events in Srinagar". Considering that remark, it is not all surprising to hear the denial by the representative of India that there is no new situation in Kashmir.

There are further statements of foreign observervers for example, the report in the *Baltimore Sun* of 5 February, which says "the hair, which Muslims believe came originally from the Prophet, is only a symptom of the problems in the Indian two-thirds of Kashmir" but I am forced to content myself with these in order to avoid undue length. The representative of India has tried to make it appear that the theft of the holy relic was an isolated incident, and that, with alleged recovery of the relic, the incident is closed. While the Government and the people of Pakistan were gravely perturbed over this theft and take no position regarding the genuineness of its recovery. I must make it clear that it is the revelations brought about by this incident, rather than the incident itself, to which are seeking to draw the Council's attention,

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There is a significant report in *The Times of India* relating to the situation after what purported to be the exposition of the holy relic. According to this dispatch from Srinagar, the President of the People's Action Committee said that the ban imposed by the Committee on the opening of shops on Fridays would continue until their demands had been conceded. It was after the recovery of the relic, again, that Maulan Masoodi, according to a Reuters dispatch said that Indian-held Kashmir was "too much a police State, with every Minister moving around with police potection.", and not only did he demand the release of Sheikh Abdullah but also criticized the expulsion of Ghulam Abdas and Yusuf Shah, two Kashmiri leaders who, since 1947 have led the movement for the accession Jammu and Kashmir to Pakistan. It is also after the recovery of the holy relic that reports continue of strikes in Srinagar, of the momentum in other towns of Kashmir besides Srinagar and of descriminate arrest.

In this connexion, I must mention some recent utterances of Bakshi Ghulam Mohammaed who for ten years, beginning in 1953, was the so-called Chief Minister of Jammu and Kashmir and, therefore, India's main prop in the State. I have already quoted [1087th meeting] his statement of 17 January 1964 that the demands of the people of Kashmir were for the release of Shekh Abdullah and the holding of a plebiscite. This statement was later "clarified" in a manner which furnished strong grounds for the belief that the "clarification" was made under pressure. We have now a statement from Bakshi Ghulam Mohammed, according to reliable reports, still uncontradicted was circulated in Delhi. The statement said :

> "Consequent upon the dismissal and arrest in 1953 of Sheikh Mohammad Abdullah because be had asked India to withdraw troops from Kashmir preparatory to holding of the promised plebiscite, I accepted premiership of the State as it was my honest conviction then that majority community of Kashmir could be brought round to staying on with India and that they would really be

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better off and more secure with secular India than with communal Pakistan.

"For a full decade. I did all I could towards this end, but year after year I became wiser by observing that events in India reflected on the psychology of Kashmiris."

Bakshi Ghulam Mohammed went no to say :

"The recent episode of the Holy Relic at Hazratbal has extremely shocked sensitive Kashmiri Muslims who now openly declare that even their religion and culture is not safe with India. They also say that Pakistan is no more a Muslim State than India is a Hindu State and the very fact that everything that befalls Hindus in Pakistan retaliates all the more severely on Muslims in India belies the claim of India to be a secular State, a State above religion. They fear their fate tomorrow will be no different from or not better than that of Calcutta Muslims.

"Of their three immediate demands, namely the release of Sheikh Abdulla, the holding of a plebiscite and the inquiry into affairs that led to the events of 1953, I have already apprised the Press."

He continued :

"I frankly admit that what Sheikn Abdullah said in 1953, I say today after a further ten years of experiment. Even today I am honest and faithful to India and if it comes to a plebiscite, I might vote for India but to keep the Indian Government and the Indian people in the dark about the inner working of the mind of Kaskmiri Mussulmans is a sin and a disservice.

"Many people may well call this statement of mine blackmail, but I make it clear, once and for all, that I am by no means eager or willing to become Premier of Kashmir again, and even if I am asked to, I will never accept that post ; nor do I oppose the change of the

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present Government in the State, nor for that matter the establishment of President rule or Sadar-i-Riyast rule, or whatever the Government of India and the people of Kashmir desire."

Bakshi Ghulam Mohammed has up to now been one of the main instruments of India's designs in Jammu and Kashmir. A statement of this nature, coming from India's chief agent in the State, acquires a singular importance. We have reports that currently he is under extreme pressure from the Indian Government and that he is either to be arrested and imprisoned —like his predecessor, Sheikh Abdullah—or forced to rescind his statements. A strong suspicion that the Government of India will mete out severe punishment to him for his audacity in confessing the facts about Kashmir is created by the statement of two former members of the Government, Sham Lal Saraf and Girdhari Lal Dogra, charging him with damaging the interests of India.

These are some of the facts which give an indication of the present situation in India-occupied Kashmir. If killing by police firing of scores of people, general strikes paralysing whole cities and towns, massive demonstrations by virtually the entire adult population of capital city and sullen resentment spontaneously expressing itself before foreign observers do not constitute a grave situation, then what will, except an outbreak of hostilities ?

That is the restraining hand of the Pakistan Government alone which preserves place in Kashmir—all the charges against us levelled by the Indian representative notwithstanding —is apparent from the repeated demands made by the Azad Kashmir Government, and the All Jammu and Kashmir Muslim Conference for the abrogation of the cease-fire agreement. These demands are not lightly made. They are the spontaneous expression of the tension in Azad Kashmir which is a direct result of the repression under which the Indian-occupied and Indian-dominated area of Jammu and Kashmir groans.

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The Indian representative denies the gravity of the situation and flings epithets at us for narrating "a horror story" fandor being victims of a "vivid imagination". If the evidence we have offered is not sufficient, let the Security Counell employ whatever machinery is feasible for a thorough and impartial fact finding of the situationin the Indian-occupied area of Jammu and Kashmir which should include taking the evidence of all political prisoners in the area. We do not see how the truth can be finally established except by an impartial inquiry. In fact, we do not see how the Security Council can avert a danger to international peace and security except by keeping the situation in Indian-occupied Kashmir under its constant and independent scrutiny.

We have drawn the Council's attention to the present situation in the State of Jammu and Kashmir and to the serious deterioration in the relations between India and Pakistan which is the direct consequence of that situation. In doing so, we believe we have done the duty that the Charter has imposed on us, the duty of seeking assistance of this world Organization. In ameliorating the situation, in arresting the deterioration, in preventing an accentuated conflict. Upon the assistance that the Council, in its wisdom and in its sense of the collective responsibility of mankind, will render us, rest the hopes for peace in our region. We pray that these hopes may not receive a setback.

194. *Text of the speech made by Mr. Chagla (India) in the Security Council meeting No. 1090 held on 10 February 1964.*

I listened to the statement of the Foreign Minister of Pakistan at the last meeting more in sorrow than in anger. One can control one's anger, but it is difficult to control one's sorrow. My sorrow is due to the fact that the representative of Pakistan should have given expression to sentiments which vilify my country and my Government, which are a calumny to the record of peace and progress that it has set up since its independence. And this by, a neighbour, against us whose only

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desire is to live in peace and amity with the people of a country which only a few years back constituted, along with itself, the sub-continent of India. I do not propose to imitate the Foreign Minister of Pakistan. I do not wish to wear out the patience of the members of the Security Council by a lengthy dissertation. Their patience has been sufficiently taxed. I think, therefore, it will be a waste of time to reiterate what I have already said in my earlier statement [1088th meeitng]. That is on the record and it speaks for itself. It clearly defines the position and attitude of my country and I stand by every word I have said there.

The representative of Pakistan has realized that the only way he can seek to justify his approach to the Security Council is to make out a case of trouble and discord in Kashmir or, to quote his own words in his opening statement that Kashmir is in open rebellion against India [1087th meeting]. If the facts show that there have been no communal disturbances in Kashmir, that on the contrary there has been complete harmony and that far from revolting against India, Kashmir at every stage of this unfortunate incident of the loss of the sacred relic has turned to India for help and support, then it is clear that no change has come about in the situation in Kashmir which according to the representative of Pakistan, justifies the present, application of Pakistan to the Security Council—not that the fact of disturbance or trouble in Kashmir would justify any intervention by Pakistan, since we have repeatedly stated that what happens in Kashmir is entirely a domestic matter for India.

The Foreign Minister of Pakistan has quoted President Khan as having said that recently there was a spontaneous referendum in Kashmir. How right he is. And what was the result of that referendrum ? The clear verdict that the Kashmiris gave was that while they were opposed to the local administration, they had full confidence in the fairness and sense of justice of the Government of India. In my earlier statement I quoted utterances of responsible Pakistan statesmen inciting the people

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of Kashmir and inflaming communal passions. I said before and I repeat that Pakistan excepted that the loss of the sacred relic would lead to bloodshed in Kashmir and the Muslim community would rise against the Hindus and the Sikhs. Even here the Foreign Minister of Pakistan has stated that at this very minute blood is flowing in Srinagar. May I ask whether it is a statement of fact or a wish and a hope? Let me categorically state to the members of the Council that there is no trouble whatsoever in Kashmir today. The sacred relic has been found and, what is more, it has been identified by the respected religious leaders of Srinagar, including Maulana Masoodi, who is not only not a supporter of the Government but who is a member of the Opposition.

We have been told that Kashmir is a vital question. Vital to whom? To the people of Kashmir or to Pakistan? President Ayub Khan in moments of self-revelation has more than once stated that Kashmir is vital to Pakistan's economy and defence. I quote:

> "Kashmir is vital for Pakistan, not only politically but militarily as well. Kashmir is a matter of life and death."

This is what President Ayub Khan said in December 1959. And again the President of Pakistan said:

> "You might say, 'why can't you give up Kashmir?" Well, we cannot give up that dispute not because we are bloody-minded but . ...for example for the reason that Kashmir is connected with our physical security. Thirty-two million acres in Pakistan are irrigated from rivers that start in Kashmir."

This is from the speech delivered by President Ayub Khan at a luncheon meeting at the National Press Club in Washington on 13 July 1961, and as reported in the *Pakistan Times* of 14 July. Again I quote the President:

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> "Kashmir is important to us for our physical as well as economic security."

This was what President Ayub Khan said at Karachi on 19 July 1961, as reported in the Pakistan Times of the following day. One more quote :

> "Pakistan's President declared that Kashmir was a life-and-death question for Pakistan, and without the solution of this problem we cannot be assured of the safety of our territory, especially the western wing of our country ....."

President Ayub Khan made this statement at Dacca on 18 October, and it was reported in the *Pakistan Times* of the following day.

So the cat is out of the bag. Kashmir is not vital for human reasons or human considerations ; it is vital to Pakistan for its own reason, namely, its own security and its own defence. This also explains what the founder of Pakistan, Mr. Mohammed Ali Jinnah, once said that he was not satisfied with the Pakistan which he had obtained because it was a "moth-eaten, truncated Pakistan." It is therefore not out of consideration of human rights that Pakistan has been so ceaselessly and pertinaciously presssing the Kashmir case before this Council.

The truth is that Pakistan wants Kashmir in support of its two-nation theory, according to which Kashmir, because its population has a Muslim majority, must necessarily form part of Pakistan. If we are thinking only of the people of Kashmir, of their rights, of their security of their desire to live in peace and quiet, then it is time to put an end to this undending controversy. Pakistan talks glibly of a plebiscite. Does it realize what its consequences will be ? In the place of peace and quiet we may have bloodshed. If the theft of the sacred relic could be exploited to produce riots 1,500 miles away, the stiring of communal passions on a large and massive scale may lead to serious communal riots all over India and Pakistan and to migrations. The only people who would suffer are not the

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politicians in Pakistan who preach a holy war but millions of innocent people who are not interested in politics and who want to be left in peace to carry on their normal avocations. So, if we are thinking only in terms of maintenance of peace and respect for human beings, then we should think a thousand times before we disturb a situation which has existed since India became independent.

The whole burden of the Pakistan Foreign Minister's song has been that the only thing which poisons relations between Pakistan and India is the Kashmir problem, and that, if the Kashmir problem is not solved, relations between the two countries will not improve, and communal troubles will continue. This, to my mind, is an open threat to the Security Council, Pakistan is telling you, Mr. President, in strong, strident and threatening tones, that, if the Kashmir problem is not settled, there will be bloodshed and war. Is anyone going to submit to this threat and intimidation?

The iron fist is concealed in a velvet glove. The representative of Pakistan has quoted Chairman Khrushchev and President Johnson and has relied on what they said about the settlement of territorial disputes by peaceful methods. Even the devil can quote Scriptures for his purpose. I cannot imagine a more perverse interpretation of the very noble sentiments to which Chairman Khrushchev gave expressions, which were whole-heartedly endorsed by the Prime Minister of India and to which President Johnson responded, than for a country to talk of peace while brandishing a sword.

The reliance of the Foreign Minister of Pakistan on the appeal made by Chairman Khrushchev makes even more inexplicable his refusal to join with India in a no-war declaration. It is true that these sentiments are embodied and enshrined in the Charter of the United Nations, but they require constant reminders and reiterations. On behalf of my Government, I wish to declare that India under no circumstances will resort to war for the settlement of its differences with Pakistan.

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I repeat that India under no circumstances will resort to war for the settlement of its differences with Pakistan. Will the Foreign Minister of Pakistan also make a similar declaration?

It is true that Pakistan wants peace, but it wants peace at the point of a bayonet and on its own terms. Why have we had no refutation from the representative of Pakistan of the statements made by responsible Pakistan leaders threatening violence against India? As I have said before, even in his letter to the Security Council of 16 January 1964 [S/5517] there is a threat of violence which is not even decently veiled but which is open and flagrant.

The representative of Pakistan has repeated the slander against India that Kashmir is under India's "colonial rule". Kashmir became part of India not as a result of conquest, nor is it a case of one race ruling over another; Kashmir has always been part of India since time immemorial, and the people of Kashmir and the rest of India are racially and ethnically the same. Even religiously; although in that part of India the Muslims might be in a large majority, this majority professes the same religion as 50 million Muslims in India. It is here that the basic difference between Pakistan and ourselves arises. The bond that Pakistan finds with the people of Kashmir, and which makes the representative of Pakistan say that the people of Kashmir are their kith and kin, is not common nationality; it is not a common race; it is not common traditions or common history; but the there bond of religion. We emphatically deny and repudiate a philosophy which equates nationality with religion. The basic philosophy on which our State is based and our Constitution enacted is a multiracial society, a society in which people of different religions can live together happily and can be treated as equals before the law and can enjoy the same rights and opportunities.

The Foreign Minister of Pakistan has spoken with great indignation of the way the Muslims are treated in India and of the frequency of communal riots. It is a gross travesty of truth

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to say that at every Muslim festival Muslims are being attacked. Is the Pakistan case so bad and so weak that it has to rely on such patent falsehoods? Muslim festivals are celebrated from time to time with members of other communities rejoicing with their Muslim brethren. Fairs are held at Muslim shrines, where tens of thousands of Hindus and Muslims attend and pay their respect to the saints. Even recently in Kashmir, as I pointed out, the loss of the sacred relic was mourned not by the Muslims alone but by the Muslims, Hindus and Sikhs, and when the relic was recovered the rejoicing was not confined to the Muslim community, but extended to all the communities in Kashmir and the rest of India. On the contrary, there was no rejoicing in Pakistan, where the recovered relic was described as a fake, presumably to incite further hatred against India, Pakistan has a mentality which makes it impossible for it to understand that Hindus and Muslims can live side by side in peace and concord.

The Foreign Minister painted a lurid picture of communal riots in India. He mentioned the figure of 550. This is a gross exaggeration. Here I might say that we inherited a bad legacy from the British period of communal riots throughout the Indian subcontinent. This was a phase which both our countries have reasons to be ashamed of, but the whole orientation of Indian policy since India became independent has been to create confidence so that these communal incidents should become a thing of the past. Since Pakistan has mentioned certain figures, may I also give the Council some figures. Between 1950 and 1956 alone, there were 8,021 cases of communal incidents in East Pakistan, in which members of the minority community were victims. These incidents were brought to the notice of the East Pakistan Government. Since 1956, of course, there have been several hundred more cases. We condemn these riots, whether in Pakistan or in India. We regret the loss of innocent lives, and we do our best to prevent such riots.

Here again the attitudes of India and Pakistan are

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diametrically different. As I pointed out earlier, the incitement to communal riots has been a part of Pakistan's policy. The representative of Pakistan has quoted some statements of members of the Hindu Mahasabha, which is a communal party in India. The representation of the Hindu Mahasabha in the Indian Parliament—one member out of 500—reflects the following that party enjoys among the people. The Indian National Congress, which is the party in power today, is strongly opposed to the philosophy underlying that party. The Foreign Minister of Pakistan is not in a position, and cannot be in a position, to quote leaders of the Indian National Congress or the members of the Indian Government inciting the Hindus in India to attack the Muslims. Indeed, that would be opposed to the basic policy of the Indian National Congress. Mahatma Gandhi gave his life in the cause of Hindu-Muslim unity, and, notwithstanding the grave provocations we have had from Pakistan, the party which he led and which won the independence of India has always preached communal harmony. There is not a Muslim in India who does not look upon our Prime Minister as a true friend.

May I refer to the testimony of an exalted and impartial observer of the Indian scene. Even Pakistan will not be able to challenge the importance and the significance of his statement. His Majesty King Syad of Saudi Arabia at the conclusion of his visit to India said this, and I would draw the Council's attention to his words:

> "When I set foot on this precious soil,"—that is, India—"two questions engaged my mind: the fate of the Muslims of India and the general administration of this sub-continent after withdrawal of the British rule... I desire now, at the conclusion of my visit to India, to say to my Muslim brethren all over the world, with greater satisfaction, that the fate of the Indian Muslims is in safe hands... This assurance has been corroborated by all Muslim leaders whom I met."

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Here is another piece of impartial testimony—I am quoting it from a document of the Sub-Commission on Prevention of Discrimination and Protection of Minorities:

> "In the course of a discussion at the United Nations Sub Commission on 11 January 1959, Mr. Richard Hiscocks (United Kingdom) said that in India Mahatma Gandhi and Mr. Nehru, two outstanding leaders of the world, had the courage to swim against the current and bring about a revolution in the approach to untouchability and to minorities. Mr. Nehru particularly in the last ten years was responsible for sponsoring legislation in the battle against discrimination of religious minorities.
>
> "He wondered whether leaders in other countries, for instance Pakistan, had the courage to emulate the example of the Indian leaders.
>
> "Senior Hernan Santa Cruz (Chile) said he had been in India recently and felt that Mr. Nehru and the Indian Parliament played a notable role in promoting tolerance and getting the viewpoints of minorities appreciated."

Let us look at the Press. As in every other country, we have a few irresponsible newspapers also, but the Government has always appealed for restraint, and I am glad to pay a tribute to the Indian Press, which has shown commendable restraint in the reporting of views and in their comments on the communal holocaust in East Pakistan and has assisted the Government of India in the restoration of law and order. Ours is a free Press, and those who are familiar with a free Press know how difficult it is to restrain it; but in Pakistan, where the Press is controlled, important papers, papers which have official backing, have carried on a raging campaign against India. There is hardly a day when hatred against India and the Hindus is not preached. Here are a few instances of what has appeared in Pakistan newspapers recently. This is from an Urdu paper, the *Hurriyet* of Karachi, of 4 February 1964: "Kashmir is aflame. Rivers of Indian Muslims' blood are flowing in

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Bharat"—that is, India "and Muslim women are being outraged". One can imagine the effect of a statement like that on the minds of the Muslims, both in India and in Pakistan. If ever there was a statement to inflame passions, it is that. They paint Kashmir as aflame, with rivers of Muslim blood flowing and Muslim women being outraged. If that is not incitement, I do not know what it is. I now quote from the *Dawn* of Karachi, of 1 January 1964—a paper, blessed by the Government;

> "They"—that is, the people of West Pakistan—"have called upon the Muslims in India and Pakistan to declare 'jehad' "—holy war—"on the issue and save Muslim shrines in that country from further sacrilege."

Which Muslim shrine has been sacrileged? Will the Foreign Minister tell me that? I quote again from the *Dawn*, the issue of 17 January 1964:

> "The President, Sardar Mohammed Alam Khan, directed the Muslim Conference office-bearers to recruit 'razakars' "—that is, fanatics—"for 'jehad' and make them ready 'till second directive'."

That is an order for recruitment, a declaration of war. They are only waiting for the proper time to march on Kashmir.

The Foreign Minister of Pakistan has taken pride in the way the Government of Pakistan has treated its minorities. Now, there are various ways of treating minorities, and one that Pakistan has adopted is perhaps the most effective one. It has driven out all but a few Hindus from West Pakistan, and it is resorting to policies which are gradually driving out Hindus from East Pakistan. If the objective of Pakistan's policy was t o have a State with only men of one religion living in it, that objective could not be better achieved than by the actions that Pakistan has been taking since its inception. And here may I say in passing that out of the 30,000-odd refugees who have crossed over from East Fakistan into one district of Assam,

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alone—namely, Garo Hills, 3,000 are Christians. So it is not only the Hindus who do not feel safe; it is also the Christians, who are also a minority in Pakistan.

It is, perhaps, easy and possible for Pakistan to get rid of its minorities. For us, we look upon the Muslims not as a minority but as an important and integral part of our nation. Fifty million Muslims live with their Hindu brethren in all parts of the country, in every village, town and city. To us the very thought of an exchange of Hindus and Muslims is abhorrent. We realize that India would break up and disintegrate if it cannot give all the communities which live in it protection and full rights.

The Foreign Minister of Pakistan does not like cold statistical facts. He prefers to rely on his fancy and his imagination. I am not going into the figures which I gave in my earlier statement on the subject of the illegal movements of persons from East Pakistan across the borders into India [1088th meeting]. The patent fact remains, which has not been disputed and cannot be disputed by Pakistan, that while the population of Muslims in East Pakistan has increased by 26 per cent during the census period 1951-1961, the Hindu population has remained stationary and that the Muslim population in West Bengal has increased much more than the natural rate. The Foreign Minister is surprised that any Muslim from East Pakistan should want to go to India. Perhaps even the Muslims of East Pakistan find India a better and a more peaceful country in which they can enjoy democratic and fundamental rights. Forty thousand Pakistan Muslim nationals today are working and earning their living in India on a proper visa. Besides, about a quarter of a million Muslims from Pakistan visited India during 1963 on short-term Indian visas. If Muslims were insecure in India, would such a large number of Muslims from Pakistan be travelling to India? The Foreign Minister also suggested that with strict passport regulations imposed by India, it would be impossible for Pakistan nationals to migrate into India. He forgets that there is an open frontier of 2,000 miles between eastern India and eastern Pakistan, and

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no passport regulations and not the strictest police surveillance in the world can prevent people from crossing the frontier. He also quoted *The Times* of London. Let me quote from a dispatch in an equally important English periodical, *The Economist*, of 5 October 1963 by a correspondent who claims to have been in Pakistan lately:

> "The subcontinental strategy of irritating India has received its latest expression on the Assam-East Pakistan frontier. India has long complained of 'infiltrations' from East Pakistan, numbering, some say, up to half a million since 1951. The exodus is probably more an index of East Pakistani misery than a cold political calculation from Rawalpindi. When the said 'emigres' are returned over the frontier, Pakistan protests that India is attempting to depopulate Assam of its Muslims."

Mr. Richard Critchfield, whose article the Foreign Minister of Pakistan quoted with approval, says this about Pakistan in the *New York Herald Tribune* of 1 January 1964 :

> "West Pakistan still receives 51 per cent of the national budget but provides 90 per cent of the Central Government staff and almost all the armed forces.
>
> "East Pakistan, with more than half the country's population but not 15 per cent of its land area, earns 70 per cent of the export income, but until recently received only a third of expenditure allocations, a fifth of United States aid and almost no new private development money.
>
> "It is these Pakistanis who have not found the conception of Pakistan a really captivating idea. Restoration of adult suffrage and the rights of free Press, speech and assembly"—which do not exist in Pakistan" could help to remedy this President Ayub cannot form the durable political base he needs on hatred of India alone."

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According to Mr. Critchifield, the only durable base that Pakistan has for its foreign policy– and this is what I said in my earlier statement also—is the hatred of India.

With such a situation in East Pakistan, is there any wonder that the people should be leaving for better opportunities elsewhere ? Infiltration of Pakistanis has created a problem not only for India but apparently also for Burma, which is the only other country neighbouring East Pakistan. Burmese press reports indicate that the number of such illegal entrants in Burma is of the order of a quarter of a million.

There has been no change in our policy concerning migrations from Pakistan, but on compassionate and on humanitarian grounds we are obliged to offer all facilities and expedite the processes concerning the examination of applications or migration certificates from East Pakistan into India. All States as you are aware, give compassionate consideration to the request of refugees fleeing in fear of persecution. It is ridiculous to suggest that the announcement by our Home Minister of better facilities for migration of the Hindu minority from East Pakistan to West Bengal would aggravate communal feelings if there are riots in East Pakistan which cause much loss of life, if the tension continues, if the Press keeps up its unceasing propaganda, is it surprising that the Hindu minority should be in a state of panic and should want to migrate to India where it would have such safety ?

In this connexion, I should like to mention that the following report has been received from the Government of the State of Assam in India. It is a harrowing tale, and I am sorry I have got to read it before this Council. While a batch of refugees numbering about 1,000 were crossing into Assam from East Pakistan on the evening of 6 February, the East Pakistan Rifles, a quaisi-military force of the Pakistan Government, opened fire on them. Eleven refugees, including some women, were injured and two children were killed by this fire.

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The injured persons and the dead bodies were brought by the refugees into Assam. The Assam Government has lodged a protest with the East Pakistan Government and has appealed to the Pakistan authorities to put a stop to the shooting down of unarmed persons seeking refuge in India.

I am surprised at the suggestion made by the Foreign Minister of Pakistan that there should be an inquiry by an impartial tribunal to decide whether the Muslims who have been evicted were Indians or Pakistan nationals. The representative of Pakistan has stated that the maintenance of communal harmony was a domestic problem for India and Pakistan. Is it less of a dome tic problem for India to decide whether a particular person is or is not an Indian national? May I ask, with all respect, whether any of the countries which have the honour of being members of the Security Council, and whose representatives are sitting around this table, would agree to abdicate their sole sovereign right of deciding which aliens they should admit or permit to reside on their territory or of determining who is a national and who is an alien? I have said before that we do not throw people out arbitrarily and we have done our best and we are doing our best to give a fair hearing to anyone who has been aggrieved by the quit notice.

The Foreign Minister of Pakistan has made an unworthy attack on the Hindu society and religion. I cannot expect him to understand the philosophy or the tenets of that religion. Similar attacks have been made by the President of Pakistan during his goodwill tour of countries of South and South East Asia. Apparently goodwill was to be advanced by attacking the Hindu religion. It requires broadmindedness and tolerance to appreciate a faith which is not one's own. It is true that the caste system still exists in India, but we are pledged to achieve a casteless society and we are ceaselessly working towards that end. It is not easy to change institutions that have existed for centuries. As the representative of Pakistan has himself admitted, we have proscribed untouchability, it is illegal. We have made it a penal offence for any person to

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deny to one who was known as untouchable any public right, and when we make our appointments, frame our policies and develop our industries, caste plays no part whatsoever, and even in social matters, its hold is becoming more and more tenuous.

I do not envy the representative of Pakistan his choice of metaphors. I think they are in extremely bad taste. He has compared India to a senile person showing his false teeth. India is a young country as far as freedom is concerned, although it is old in tradition and history. It is a country which, since its independence, has maintained democratic institutions and has launched upon its economic development in the setting of freedom. These are not false teeth. The are the teeth which we acquired with our birth as an independent nation.

The Foreign Minister of Pakistan showed surprise that we should resent Pakistan's friendship with China. We do not. We ourselves believes in friendship with all countries and we were friendly with China before it committed aggression on us. The Foreign Minister objected to my expression when I spoke of Pakistan's flirtations with China. Perhaps Pakistan has serious matrimonial intentions. What we object to and resent is Pakistan's attitude towards us from the time the Chinese aggression began. One would have thought that when China attacked us Pakistan would have said to us : "We have our quarrels, we have our differences, but we are neighbours and we will not add to your troubles." That would have been a helpful attitude. However not only did Pakistan not stand by us, but it used ever argument to prevent friendly countries from giving us aid. It used the same tactics which it is using now in the Security Council, and its threat against its allies in the South-East Asia Treaty Organization and the Central Treaty Organization was that, if they gave aid to us, Pakistan would walk out of the alliances.

The Foreign Minister of Pakistan has said that his country has always been loyal to its allies. In this connexion I shall

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content myself with quoting a statement made by Premier Chou En-lai on 10 April 1963 to the Associated Press of Pakistan. Premier Chou En-Lai disclosed that the leaders of Pakistan had assured him in 1954 that Pakistan had joined the Western military alliances only to gain political and military ascendancy over India and that "Pakistan had no other motivation in joining the pacts". I wonder whether the Foreign Minister is going to say : "Save me from my friends." Having tried its best to prevent us from strengthening our defences in the hour of our peril, Pakistan carried on, and carries on still today, a propaganda in support of China and seriously suggests that we are the aggressors and China the aggrieved party. This seems to be the favourite gambit of Pakistan : always to accuse the innocent party of aggression.

The Foreign Minister of Pakistan has insinuated that it is not only with China but with other neighbouring States bordering on India that we have strained relations. The motives and objects of this uncalled for and malicious propaganda which Pakistan has been carrying on against us are all too obvious. Our non-aligned policy is based on friendship with all countries, whatever their ideology and whatever their political or economic structure. We have very friendly relations with our immediate neighbours, Afghanistan, Nepal, Burma and Ceylon. We were on equally friendly terms with China, but China attacked us and took violent and unfawful possession of a part of our territory.

Pakistan has gone to the length of comparing us with South Africa. I vividly remember the year of 1946, when I was at the United Nations as a member of the Indian delegation and I handled the draft resolution against South Africa which India had submitted and which India succeeded in getting adopted in the United Nations General Assembly by a two-thirds majority as resolution 44 (I). We were the first to lead the crusade against racial discrimination and South Africa's racial policies. Pakistan's crude attempt to set us at odds with our African brethren will not succeed. I suppose what

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Africans say is more authentic than what the distinguished Foreign Minister of Pakistan alleges. Permit me to quote, as an example, what Albert Luthuli has said in his recent book, *Let My People Go*. As the Council is aware, Chief Luthuli of South Africa is an outstanding African leader ; he was awarded the Nobel Peace Prize and wrote his book in 1962. On page 210 of his book he states :

> "The way in which India at U.N.O. has taken up the cudgels on behalf of the oppressed South African majority, and dragged the whole scandal of apartheid into the open, has heartened us immeasurably..."

If any parallel exists, it is between the policies of Pakistan and South Africa. The Government of South Africa, instead of putting down racialism and apartheid, supports it, glories in it and gives it a legal and official bocking. Pakistan too, instead of working for a multi-communal society, preaches hatred of one community against the other and exhibits intolerance and fanaticism in every aspect of its policy. Here I may mention that the General Assembly at its seventeenth session adopted resolution 1761 (XVII), which called upon Member States, among other things, to cease all trade with South Africa. As is well known, India has had no trade with South Africa for the last seventeen years. In spite of the adoption of that resolution, and in spite of its co-sponsoring and voting for the resolution, Pakistan continued to carry on trade with South Africa, and here I would like to quote from a United Nations document of 22 November 1963, which contains the replies received from Member States in pursuance of General Assembly resolution 1761 (XVII) and the Security Council resolution of 7 August 1963. The replies were contained in communications to the Secretary General or to the Chairman of the Special Committee on the Policies of *apartheid* of the Government of the Republic of South Africa, or in statements before the General Assembly or the Security Council. I quote from the Pakistan statement contained in the aforementioned document :

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> "It has prohibited the import of South African goods into Pakistan, and has banned the sale of arms, ammunition and all types of military vehicle and other strategic goods to South Africa. It is still carrying on a certain amount of export trade with South Africa in pursuance of earlier commitments, but is actively considering the termination of such exports."

The General Assembly adopted resolution 1761 (XVII) as long ago as 1962, and this reply of Pakistan that I have quoted was submitted on 22 November 1963.

Pakistan is one of the few African and Asian countries which still has diplomatic relations with Portugal ; not only that– it has had extensive commercial and air traffic relations. India broke off diplomatic relations with Portugal a long time ago. Surely, it is not merely a vivid imagination but a diseased and perverted one which can compare Kashmir with Angola and Mozambique. Again, to equate the question of self-determination in Kashmir with the question of self-determination in Angola and Mozambique or in other African territories is ridiculous. While Jammu and Kashmir is a part of India, Angola and Mozambique are non-self-governing territories-specifically so declared in General Assembly resolution 1542 (XV) adopted in 1960—whose people have, under the United Nations Charter, the inalienable right of independence in accordance with the wishes of the people.

The Foreign Minister of Pakistan waxed eloquent over the question of self-determination. I note that though he used many words he had no answer to the question whether he was prepared to concede the right of self-determination to the Pakhtuns, the Blochis or to East Pakistan whose people, as a matter of common knowledge, racially, ethnically and liguistically, are different from the people of the rest of Pakistan.

Let me repeat that the principle of self-determination is applicable to nations and nation States and cannot be used for

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the breaking up of a State or the fragmentation of peoples. It is this principle which the United Nations and all African States invoked to oppose the self-determination of Katanga. No one questions the rightness of this decision which saved the Congo and perhaps a large part of Africa from further division and fragmentation and chaos I repeat our position which I think I already made clear in my statement of 5 February [1088th meeting]. We fully endorse the principle of self-determination and I repeat : we fully endorse the principle of self determination. But no Member of the United Nations will accept as an instrument for the fragmentation of states and nations.

As a Member of the United Nations India has already exercised the right of self-determination. Through a Constituent Assembly of elected representatives in which the representatives of the State of Jammu and Kashmir participated, the Indian people gave themselves a Constitution which has been in force for fourteen years. Under that Constitution three general elections based on universal adult suffrage have been held, in the last of which there was an electorate of 210 million - the largest known in history. The Indian people inhabiting Jammu and Kashmir have fully shared in that self-determination. They have already exercised their right of self-determination, but when it is suggested that there should be self-determination for the people of Kashmir, as distinct from the people of India, this is a proposition which we cannot accept, as indeed any other suggestion based on the premise that the majority of the people of Jammu and Kashmir happen to profess, a particular religion.

Did Pakistan permit the people of the princely States in Pakistan to exercise the right of self-determination after the Ruler acceded to Pakistan? As was disclosed in the West Pakistani High Court a few years ago, the accession of a Bahawalpur had been forced on the Rular of that State. The Khan of Kalat revolted against accession and was arrested and detained in 1958. In neither case was the principle of self-determination applied. When Pakistan purchased—and I emphasize the word "purchased"—the territory of Gwadar from the Sultan of

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Muscat, what happened to Pakistan's solicitous regard for the people's right to self-determination? No opportunity was given the people of Gwadar to say whether in the second half of this, the twentieth century, they wished to be bought like chattel.

The Foreign Minister of Pakistan sought to counter my argument with regard to accession when I said that the question of religious complexion did not enter into the legal validity of the Instrument of Accession executed by the Ruler of Kashmir. He relied on the instance of Junagadh. Now in that case, accession would have contravened the principle of contiguity, apart from the fact that the large majority of the people of Junagadh —and that is beyond dispute—were totally opposed to the Ruler acceding to Pakistan. You have only to look at the map of that part of India to realize how absurd Junagadh's accession to Pakistan would have been. In the case of Kashmir, not only have we a legal, inconditional accession, but we also have the principle of contiguity satisfied; and even if we were to take into consideration the wishes of the people of Kashmir, at the time of accession, there can be no doubt that the National Conference—which, as I already pointed out in my earlier statement, was the party representing the large majority of the people of Kashmir—was clearly and emphatically in favour of accession to India. In the case of Hyderabad and Jodhpur as well, the principle of contiguity applied, and the people of those states were in favour accession to India. I do not wish to repeat what I have already said about the effect of the Ruler of Kashmir executing the Instrument of Accession and the Governor-General of India accepiing it. I have also pointed out that various statements made by the Prime Minister of India and others with regard to consulting the wishes of the people were made in the context of the situation then existing and on the clear understanding that Pakistan would discharge its obligations solemnly given to the Security Council and vacate its aggression.

During the discussion between the United Nations Commission for India and Pakistan and the Prime Minister of India regarding the Commission's plebiscite proposal of 11 December 1948, which later became the resolution of 5 January 1949, the position of the Prime Minister of India was the following:

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"The Prime Minister emphasized firstly that, if the Government of India were to accept the Commission's plebiscite proposals, no action could be taken in regard to them until parts I and II of the Commission's resolution of 13 August had been fully implemented; secondly that, in the event of Pakistan not accepting these proposals or, having accepted them, of not implementing parts I and II of the resolution of 13 August, the Indian Government's acceptance of them should not be regarded as in any way binding upon them. . . ."

This is what the Prime Minister of India said on 21 December 1948, and this is the exact position I am taking up today in the year 1964. The Prime Minister made it clear that unless the terms of parts I and II of the Commission's resolution of 13 August 1948 were implemented, the acceptance of the Government of India would not be regarded as binding upon us. There is no difference whatever in the position taken by the Prime Minister in 1948 and the position I am taking at this table in 1964.

Dr. Lozano, Chairman of the Commission, accepted the points made by the Prime Minister of India, in paragraphs 2 and 3 of aide memoire I contained in the Commission's second interim report. Mr. N. Gopalaswami Ayyangar, whom also the Foreign Minister of Pakistan has quoted, said this in the Constituent Assembly of India on 27 May 1949:

"The accession was offered by the Maharaja and it was accepted by the Governor-General of the time. . . It is an absolutely unconditional offer . . . The accession is complete."

The position is quite clear, namely, that India itself offered, not as a part or pre-condition or post-condition of accession, but unilaterally to the people of Jammu and Kashmir, that after the soil of Kashmir was cleared of the invaders and law and order had been restored, the wishes of the people would be ascertained. It is in this limited sense that accession was said at

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that time to be subject to the wishes of the people. This did not and could not affect the legality of accession, which, as I said in my statement and as I maintain, was absolute. The Indian Independence Act of 1947, which surely the Foreign Minister of Pakistan would not repudiate, does not speak of conditional accession or any right of secession of a constituent State. Can he tell us if under that Act accession could be anything but complete and absolute? Does the Act contain any provision even remotely contemplating partial, temporary, inchoate, or conditional accession? Are there any words in the relevant provisions of the Act dealing with accession which are other than plain, straightforward and unambiguous?

The Prime Minister of India reaffirmed the same position while speaking to Parliament on 8 August 1952:

> "All the States in India acceded in July or August later that year (1947) on these three basic subjects—foreign affairs, communication and defence. Can anybody say that accession of any State was not complete in August or September or later in 1947 because it came in only on these three subjects? Of course no. It was a complete accession in law and in fact. So the accession of Jammu and Kashmir was complete in law and in fact on a certain date in October . . . There the matter rests and it is not open to doubt or challenge."

Therefore, we have never changed our position. Our position has remained the same from 1941 until today.

When I said that the two resolutions of the United Nations Commission for India and Pakistan which we had accepted had become obsolete, I did not say it out of any disrespect for the Security Council. We are a founder Member of the United Nations and we have the greatest respect for that Organization and particularly for the Security Council. But how else can you characterize a resolution which was adopted sixteen years ago and which has not been acted upon by Pakistan, except as obsolete? It is obsolete in the sense that the very

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bottom has been knocked out of it by the conduct of Pakistan itself. The Foreign Minister has very wisely not referred to the false statements made by Pakistan with regard to its presence in Kashmir. He has tried to get rid of those inconvenient facts by suggesting that they are irrelevant, because these events happened prior to the arrangement arrived at between ourselves. Pakistan and the Security Council. That is a total misreading of the Commission's resolutions. I have said it before and I repeat that these resolutions were conditional and the condition was the vacation of aggression by Pakistan, a condition which was not satisfied and has not been satisfied up to this day.

Pakistan apparently finds it difficult to explain its unlawful presence in Kashmir. The Foreign Minister has sought to dispose of this inconvenient question by saying that:

> ". . . the controversies which existed before the acceptance of an agreement cannot be revived . . . Once an agreement is reached, you cannot revive the controversy which led to the agreement." [1089th meeting, para. 55.]

It is a strange argument that because we had agreed to a compromise formula on certain conditions, the compromise becomes sacrosanct even if the conditions have not been satisfied. It would indeed be a strange situation if one could not discuss tentative plans without being bound by them for all time. How could one then carry on negotiations? In the course of discussions many offers and suggestions may be made. These offers become binding if they are accepted. If they are not accepted, they terminate. If an offer is made and it is not accepted or not implemented, it cannot stand forever. We have made this clear on numerous occasions in the past and we are not doing so once again.

At no time did we abandon our sovereignty over the State of Jammu and Kashmir, and we have never agreed to any resolution which even by implication questioned this sovereignty. We have taken pains to see that this basic position,

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adopted in the Commission's resolutions of 13 August 1948 and 5 January 1949 is not departed from. We were naturally not prepared to modify these resolutions which had been accepted by both parties, particularly as the suggested modifications were only in favour of Pakistan. All the subsequent talks about "synchronization" and about "balanced forces" and so on were not contemplated by the Commission in its resolutions.

I have just stated that the resolution of 13 August 1948 has become obsolete and the bottom has been knocked out of it by the conduct of Pakistan itself. May I briefly enumerate some of the major violations of the terms of this resolution by Pakistan:

(1) Continuing presence of Pakistan forces and Pakistan personnel in Kashmir. This is not disputed by Pakistan.

(2) Introduction of additional military equipment into occupied territory. This again cannot be dispute by Pakistan.

(3) Construction of airfields in occupied territory; thus creating bases for attack against India, endangering its security. Again, this is an undisputed fact.

(4) Consolidation and incorporation of the occupied area of Jammu and Kashmir into Pakistan. Again there can be no dispute about this.

(5) Using its membership of military pacts to increase Pakistan's military potential in Kashmir and to strengthen the so-called "azad" Forces, officered, trained and equipped by Pakistan. I do not think this can be challenged either.

(6) Occupation of Northern areas. They have been occupied by Pakistan.

(7) Continuous threats of force and the creation of a war atmosphere, which are a constant menace to the cease-fire line I have given the Security Council innumerable instances of these threats of force and the creation of a war atmosphere.

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(8) Organizing and financing of subversion and sabotage in Jammu and Kashmir. Almost every month in Kashmir there are instances of subversion and sabotage organized and financed from Pakistan.

(9) Having no common border with the People's Republic of China, Pakistan has nevertheless negotiated with it Kashmir's border with Sinkiang, thus disrupting the territorial unity of the State of Jammu and Kashmir. This is the most recent violation, giving away over 2,000 square miles of Kashmir to China in a so-called treaty rectifying the border between Pakistan and China. Pakistan has no border with China. The only border is our border, the border of Kashmir. They are in unlawful possession of that part of Kashmir and they try to give away somebody else's property.

The Foreign Minister of Pakistan has referred to certain statements alleged to have been made by Bakshi Ghulam Mohammed, who until recently was the Prime Minister of Kashmir. I do not know the source from which he has obtained them. My instructions are that these statements are not genuine, and this is borne out by a clear-cut straightforward statement made by Bakshi Ghulam Mohammed, President of the National Conference, on 6 February 1964. He appealed to "all patriotic elements" in the State as well as in other parts of the country to join hands in defending the country's freedom against increasing treats from Pakistan. He drew attention to the ever-increasing threats from Pakistan to the security of the State and: "the malicious hate - India campaign unleashed by Pakistan Press and radio." And he added:

> "The need to close our ranks and forge unity among all those who believe in democratic secularism and planned economic progress of the nation has become paramount. It is time to forget and sink our past differences."

I quote again:

> "Our representative in the Security Council"—he is referring to my humble self - "has voiced the true feelings

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of the people of Jammu and Kashmir by asserting once again that since the people of the State had already thrice expressed their verdict to become an integral part of India, the question of holding a plebiscite must be treated as closed. He " that is, myself—" has correctly stated that Jammu and Kashmir is as good a part of India as any other State. Therefore, Pakistan has no right to meddle in our internal affairs. The issue which still remains unresolved is the continued illegle occupation of a large part of our territory by Pakistan. Immediate vacation of Pakistan's aggression is the only relevant subject needing consideration by the Security Council. It is, therefore, earnestly hoped that no further delay will be permitted in resolving this basic point."

I might point out that I received this very morning a telegram from Delhi saying that the statement on which the Pakistan Foreign Minister had relied is described by official circles in new Delhi and by Bakshi Ghulam Mohammed himself in Srinagar as a crude forgery. I really think that when one relies on statements and flourishes them in the Security Council, one might take a little care and find out whether they are authentic and genuine. A false statement was relied upon by the Foreign Minister of Pakistan and we have just received a telegram that it is a crude forgery and we have the statement of Bakshi Ghulam Mohammed himself contradicting the statement relied upon by the Foreign Minister.

There is a minor matter, that I must clear up. It may be true that as between the United Kingdom, Pakistan and India, India and Pakistan were successor States to the United Kingdom, but there is no doubt that internationally Pakistan was a new State and India was the successor State to undivided India. If that had not been so, it would not have been necessary for Pakistan to be admitted as a Member of the United Nations. If both of us were successor States, then both of us would have automatically become Members of the United Nations. The Foreign Minister has also referred to mediation and arbitration. Need I tell him that in the matter of sovereignty, there cannot

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be mediation or arbitration? It is the clear insignia of sovereignty that the country which claims sovereignty cannot permit adjudication about it or leave it to some other country to decide whether in fact it is sovereign or not.

We have been told that four Indian divisions are stationed in Kashmir. I am not here to disclose military secrets. As in other sovereign States, our army, wherever stationed without our borders, is intended for the defence and security of our land and our people. Our people in Kashmir have nothing to fear from their own army. Indeed, aggression in Kashmir, by Pakistan on the one side and the People's Republic of China on the other, compels us to take adequate measures in self-defence. This is exactly what the late Mr. John Strachey, M.P., from whom communication to *The Observer* I quoted in my earlier statement [1088th meeting], felt about our action.

I do not want to go again into the question go of the Calcutta riots. I have already dealt with it. But it is totally false to suggest that the landlords have been allowed to make profit out of the property of poor Muslims which was burnt down. Both the Chief Minister of West Bengal and our Home Minister have made it clear that no one will be permitted to benefit by the troubles and misery which has been suffered by our Muslim fellow citizens. The Home Minister went further than that: if necessary, even the Constitution would be changed to prevent landlords from making money out of the misery of the poor. Already the West Bengal Government has promulgated an ordinance to deal with this situation.

To sum up, Pakistan came to the Security Council on two specific charges. One was that we were trying to integrate Kashmir further into India, and the second was that there is a grave situation in Kashmir which called for some action by the Council. In my submission, the Foreign Minister of Pakistan has failed to substantiate either of these allegations,

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and therefore there is nothing before the Council on which it need take action.

In conclusion, may I end on the same note that I did in my earlier statement. These recriminations, this unending debate, this making and answering of charges lead us nowhere. We are prepared to discuss all our outstanding differences with Pakistan, including Kashmir, once the bitter feelings and the communal passions have subsided Pakistan can help in this by eschewing propaganda at home and abroad and by taking every measure to prevent incitement to communal passion in its Press and on its radio. I wish to assure the Foreign Minister of Pakistan, with all the emphasis at my command, that Pakistan has nothing to fear from India. We have no aggressive intentions. We feel that in the prosperity of Pakistan lies the prosperity of the whole subcontinent of India, and this prosperity, both of India and of Pakistan, depends upon Hindus and Muslims in both countries living peacefully side by side. Let us make every effort to come together and see whether we cannot take the necessary steps towards this end. This is essentially a matter for us to decide : Pakistan and ourselves. No intervention of a third party can be of much help. There are certain matters which can only be settled bilaterally, and the question of communal peace and harmony in India and Pakistan is one of them.

195. *Text of the speech made by Mr. Bhutto (Pakistan) in the Security Council meeting No. 1104 held on 17 March 1964.*

Mr. President, I am grateful to you and to the other members of the Council for convening th s meeting to resume the Council's consideration of the situation in Jammu and Kashmir and its grave repercussions on the relations between India and Pakistan. At the 1093rd meeting of the Council, I requested postponement of a few days in the Council's proceedings. My Government deeply appreciates that this request was granted by the council.

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My purpose in addressing the Council again is first, to give a brief account of the stuation inKashmir as it has developed since our last meeting and, secondly, to clarify my Government's position in relation to the perspectives that emerged during the Council's discussion in February.

It will be recalled that the situation which we brought to the Council's attention had as its immediate background the announced intention of the Government of India to integrate Jammu and Kashmir with the territory of the India Union in violation of the international agreement regarding the State—an agreement binding upon both parties to the dispute. The announcement of this policy of the Government of India evoked the utmost resentment of the people of Jammu and Kashmir. The result was an outbreak of open rebellion against India in Kashmir.

After the Council had heard both parties, every member expressed deep anxiety for a prompt and peaceful solution of the dispute. An appeal to the two parties to refrain from measures which might aggravate the situation was clear in the statements made by the members of the Council without exception. It is my painful duty to report that this appeal has not been heeded by the Government of India. On the contrary, the Minister of Education of India, in a statement of 24 February 1964, made in the Indian Parliament, even tried to distort the statements of the members of the Security Council and interpreted them as conveying a tacit acceptance of further measures of integration of the State of Jammu and Kashmir into India.

Thus three facts have emerged during the interval since our last meeting : first, the movement of protest in the State of Jammu and Kashmir has continued ; secondly, India has shown no signs of relenting in its policy of repression against the people of the State ; thirdly, the Government of India has shown itself to be best on adopting those very measures towards the annexation of the State against which Pakistan had specifically protested to the Council. Thus, during the interval,

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there has been no mitigation of the gravity of the situation between India and Pakistan.

Let me cite some important developments that have occurred since our last meeting. On 20 February 1964, India's Minister of Home Affairs, Mr. Gulzarilal Nanda, indicated in the Indian Parliament that "the special constitutional provisions that differentiated Jammu and Kashmir from other states of the Indian Union would soon disappear". He added that "conditions as they developed called for speedier action now".

on the same day, a corresponded of *The Times* of London, reporting from Srinagar, said that Delhi would "cobble arrangement" in-Kashmir. The arrangement that was cobbled was the installation of a new puppet Premir in Indian-occupied Kashmir on 28 February 1964. It is significant that this was done in defiance of the warnings given by saner elements within India itself. A prominent member of the Indian Parliament, Mr. M. R. Masani, stated on 26 February that "replacing Mr. Shamsuddin with Mr. G. M. Sadiq the Prime Minister could not stabilize the situation in the State for long". Indeed, the new puppet was installed even though *The Times* reported on 25 February that "resentment against Delhi's insistence on imposing him had increased considerably in Kashmir".

It is evident that Mr. Sadiq was nominated to head the Indian-sponsored regime in Kashmir because he had been demanding complete integration with the rest of India and the ending of Kashmir's special status. He fulfilled the expectations of his patrons by announcing on 1 March 1964 that his Government would remove all barries to territory's integration with "the rest of India". To this end, the new Indian-sponsored regime in Kashmir introduced a bill in the so-called State Assembly on 10 March 1964, which seeks to change the designation of the Head of State and the Head of Government of Indian-occupied Kashmir, and provides for replacement of the State flag by the flag of India.

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India's new agent in Kashmir has gone even further and has called for the appointment of the Government of Indian-occupied Kashmir by the President of India instead of his being elected by the State "Legislature". The new Cabinet includes a Minister belonging to an extremist Hindu organization, whose avowed object is to convert by means of violence and by large-scale immigration from India, Kashmir into a Hindu-majority area. Furthermore, key posts in the civil and police administration of Indian-occupied Kashmir have been turned over to non-Kashmiri officials. These include the post of Chief Secretary, to which an official of the Government of India has been appointed with full powers to fill other sensitive posts by the officials of the Government of India.

It is hardly necessary to explain at length the effect which these measures are designed to have. Their meaning is unmistakable. They are designed to carry out the annexation of the State of Jammu and Kashmir to the Indian Union. They are designed to destroy the identity of the people of Jammu and Kashmir. As I said in my statements in February, the question at issue is not what provision India should retain in, or eliminate from, its Constitution. The question at issue is whether India intends to facilitate the exercise of free choice by the people of Jammu and Kashmir or workout prevent it. Inasmuch as India, at an early stage, sought to give a symbolic recognition to the identity of the people of Jammu and Kashmir in article 370 of its Constitution, the abrogation of this article to be understood in no other light than India's intention to present the United Nations with a fait accompli and to try to close all avenues of escape for the people of Jammu and Kashmir.

We have protested to the Security Council against India keeping the accredited leaders of the people of Jammu and Kashmir in gaol. But what we are witnessing now is the wholesale imprisonment of an entire people and an attempt at reinforcing and multiplying the bars of steel behind which they have been encaged. Permit me to say that no act of the Government of India could be more calculated to serve as a grave provocation to Pakistan and to demonstrate complete

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defiance of the wishes of the United Nations for an amicable settlement of the dispute. Considering the timing and the rapidity of the execution of these measures for the integration of Indian-occupied Kashmir with India, how is it possible, I ask, for us to understand them except as evidence of India's determination to bring matters to a head and stage a showdown ? This is the situation that we are bringing to the Council's attention.

It will be recalled that, when we drew the Council's attention to the upsurge of popular feeling in Kashmir against India, the Indian representative emphatically replied that "the demonstrations in Kashmir were aimed at the local administration" and had no bearing upon Kashmir's relation with India or Pakistain. The question naturally arises : what is the truth ?

The truth could be found out by an independent fact-finding agency of the Security Council, if one existed, and my Government would be under necessity to elaborate the point further. In the absence of such an agency, however, one can only turn to the reports of impartial foreign observers. Out of the many which have appeared recently, I shall quote only a few. The *The Time* of Lonon, of Feburary 1964, for example, reported :

> "Intense feeling in the Valley against the ruling party in the State, the National Conference, has been projected against Delhi as well, and feeling there has probably never been more strongly against integration with India than it is now".

I might recall here that in my statements before the Council in February, I had said that it was the revelations brought about by the Hazratbal incident, rather than the incldent itself, to which we were seeking to draw the Council's attention. All subsequent developments in Kashmir have borne out the truth of our submission. Here, for example, is

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a report in *The New York Times* of 29 February 1964, which says :

> "The riots that followed the theft from a mosque of a hair revered as a relic of"—the Prophet—"Mohammed brought to light strong anti-Government feeling in Kashmir...
>
> "New Delhi was alarmed by the pro-Pakistan sentiments of the people, which continued to be expressed after the relic had been restored".

Here is another report in *The Evening Star* Washington of 14 March 1964, which says :

> "India maintained that the popular uprising was directed against the local puppet government and did not express resentment against India itself. Weeks after tens of thousands of Kashmiris demonstrated in the streets of Kashmir's capital, Srinagar, demanding a plebiscite, independence or to join Pakistan, Prime Minister Nehru's new deputy, Lal Bahdur Shastri, told Parliament that the people of Kashmir welcomed full integration with India".

The correspondent then talks of "the cloud of gloom and despair" in the Kashmir valley because of "a combination of armed police and imported Indian administrators", and then he adds : "India now seeks a breathing spell to regain its shaky hold on Kashmir and wants time to absorb it gradually into India".

This testimony about the facts of the situation in Kashmir is further strengthened by reports in the Indian Press itself. According to *The Times of India* of 20 February 1964, most of the shops in Srinagar remained closed on 19 February in response to a call given by the Action Committee for observance of a general strike as a mark of protest against the convening of the State Assembly which "was not a true representative

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body". An article entitled "Inside Kashmir" by a columnist, Nandan B. Kagal, in the same newspaper on 26 February said :

> "Whether one likes it or not, the Action Committee set up by Maulana Masoodi after the Hazratbal theft has within the space of a few weeks seemingly become the voice of the people of the Kashmir valley .. It appears to have a wider popular base than any other political group in Kashmir today .. It has called for Sheikh Abdullah's release and also for Choudhury Ghulam Abas's return to Kashmir. When these demands are coupled with the allegation that the State Assembly does not truly reflect the will of the people of Jammu and Kashmir, the political objectives of Maulana Masoodi and the Action Committee become quite clear. Once the representative nature of the Kashmir Assembly is challenged, though its might remain legally valid, their meaningfulness in terms of democratic principles is reduced. Maulana Masoodi in effect says that Kashmir's accession to India is neither final nor irrevocable..."

Then *The Times of India* on 21 February said that : "It is now quite plain that Maulana Masoodi and his colleagues on the Action Committee want to reopen the accession issue."

What clearer refutation, I ask, could emanate from India itself of the thesis advanced by the representative of India here that "the demonstrations Kashmir were aimed at the local administration".

As a matter of fact, the latest reports leave one in no doubt about the nature of the popular movement in Kashmir. According to *The Statesman* of Delhi of 17 March 1964, the Action Committee in Srinagar, which has elsewhere been described as "the vioce of the people", affirmed in a resolution on 15 March that the people of the State would not accept any solution of the Kashmir issue which is not based on the freely expressed will of the people, and

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called for immediate implementation in full of all pledges given to the people. They demanded the resolution the dispute once and for all on the basis of a free and fair vote. The Kasnmir Political Conference issued a statement on 16 March 1964, demanding that an appropriate atmosphere be e:tablished for the meeting of the leaders of India and Pakistan to solve the Kashmir question in accordance with the wishes of the people of Jammu and Kashmir.

The truth is that India knows full wcll the reality of the people's movement in Kashmir and the cause of the continued crisis. Yet what is the response of the Government of India ? It is to proceed with greater speed to integrate Kashmir into the Indian Union. It is to threaten stern action against anyone in Kashmir who stands in the way. When the Government of India threatens dire consequences for it the people of Jammu and Kashmir take the stand that they are entitled to decide their own destiny, it brings out the explosive nature of the present situation more clealy than it can be described. It shows that India, which is a Member of the United Nations, a signatory to the Charter, pledged to respect the authority of the Security Council, is prepared to persecute a people for no other act than their making manifest the demand that a principle of the Charter, and the decisions of the Security Council based on it, should implemented in their case. Even there had been on other disquieting factors in the present situation, this attitude of the Government of India would itself be enough justification for Pakistan to seek the Council's intervention.

Actually, there are other disqueting factors which I have already reported. They emphasize the critical, cancerous naturc of the present situation between India and Pakistan. The situation on the cease-fire line, always uneasy, is today more troubled then ever before. Serious incidents have taken place in recent weeks, leading to heavy exchages of fire, resulting in a number of deaths. The urgency of the situation is as it is poignant. There is no international agency but Security Councial which can meet it and thus help to avert the danger

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to peace, which is otherwise being dangerously augmented day by day.

The danger to peace is indicated by the statements of responsible Indian spokesmen. On 15 March 1964, India's Minister for Works and Rehabilitation, Mr. Khanna, said that Pakistan is "India's enemy No. 1" and urged Indian students to follow "the path of Shivaji and Govind Singh". These were war-lords in Indian history who fought against the Muslims and who were defeated by the Muslims. These were the war-lords to which the Indians referred during the Sino-Indian conflict. The Defence Minister of India has added to this statement that India will be "Pakistan's graveyard". Those are the words spoken by the Defence Minister of India the other day. While Pakistan, of course, remains unafraid of these threats, it is evident that they cannot be disregarded an appraisal of the present situation.

The Council's consideration of the question in February helped to bring out again those aspects of the issue which, we believe, must not be obscured if a just and peaceful settlement is to be achieved. The pronouncements made by the members of the Council showed again that the United Nations is not insensitive to those principles upon which alone a structure of peace can be enduringly built.

The problem, however, remains that those pronouncements have to be brought to bear in reality on the situation which confronts us. One of the trends of the Council's debate has been to emphasize the necessity of resuming negotiations between India and Pakistan. I need hardly remind the Council that this advice is not, and could never be, unwelcome to Pakistan. Throughout the existence of the dispute, the Government of Pakistan has been anxious to utilize all reasonable methods for its peaceful and equitable solution. When Member States of the Council talk of negotiations between India and Pakistan, I would merely ask them to take into

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account our long experience of this particulai method of trying to resolve the dispute.

There were conversations between the Prime Ministers of India and Pakistan even before the issue was brought to the Council in 1948. There was a long correspondence in 1950 and 1951, punctuated by personal contacts between the Prime Ministers of both countries, about formulating the principles which should given the settlement of disputes between the two countries. There were negotiations again between the two Prime Ministers in 1953 and 1940. There were some direct talks in 1955. From 1958 to 1954 the President of Pakistan made sustained endeavours to source a just and peaceful settlement of the dispute by direct negotiation. Then again, as the members are well aware, six rounds of talks were held between India and Pakistan from December 1962 to May 1963. It can, therefore, hardly be said that we have failed to explore the possibilities of this method, far less spurned it.

Since all direct negotiations between India and Pakistan so far have failed, we believe that it is necessary to bear in mind the reason for their failure. When one party refers to the governing principles of the case and the other relies on its might, when one seeks thc reality of negotiation and the other wants only to contrive its semblance, when one seeks to expedite the process and the other is determined to stall it, what is the result? The inevitable result is that the parties talk at cross purposes with each other. There is then nothing to prevent negotiations not only from being wasteful but, through their futility, from worsening a tense situation. Even mediation does not help greatly in such a case, unless the mediator is in a position to direct the negotiations and to relate them to a framework which is reasonably precise. That alone can give the negotiations some coherence and purpose. To ask a mediator to assist in achieving a solution without a defined basis is to place an unfair burden on him.

It was said in this Council in February that the negotiations required in this debate should be constructive and sincere.

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But the problem is, how do we make the negotiations with India constructive and sincere, if the Indian position is that which was stated in the Council ? What promise of success can we discern when the Minister of Education of India, reporting the Council's proceedings to his Parliament on 24 February 1964, said : "I think we have laid the ghost once and for all for the holding of a plebiscite in Kashmir."

This kind of statement is probably an apt reminder to the Security Council that no formula for negotations can help if it is vague and lends itself easily to distortion. Given the authority of the United Nations and his personal standing, the mediator's good offices will certainly be a positive element. But this element, in order to be constructive, needs a foundation and a base. It needs precise terms of reference that can be objectively commended.

What point of departure can be more objectively commended than the principles of the Charter and the international agreement which has been solemnly accepted by both parties ? This agreement was not imposed by the Council. It is based on the common denominator between the declared standpoints of the parties and, in itself, embodies a compromise between their respective claims. It is an agreement to which the Security Council itself is a party and to the clarification of which the thought and effort of scores of Member States and the eminent individuals who have served as representatives in the Security Council have been devoted.

That the agreement embodied the pledge given by India and Pakistan to the people of the State is a fact which has been constantly affirmed and reaffirmed by the Security Council. Thus, the agreement has had behind it the recognition of all members of the United Nations. If anything was wanting in making this recognition universal, that, too, has now been done.

I must, in this context, stress before the Council that plebiscite in Kashmir is not just a slogan of Pakistan. It is not any consideration of prestige which attaches us to the inter-

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national agreement on the state of Jammu and Kashmir, that is the two resolutions of the United Nations Commission for India and Pakistan. We invoke the principle of self-determination because it is the only basis—I repeat, the only basis—on which a solution of this problem can endure. Let us keep in mind the nature of this problem. It is not the problem of a border. It is not a dispute over a piece of territory. It is not a clash of economic interests. It is not a rivalry between two systems. It is the problem of the life and future of nearly 5,000,000 people who inhabit a territory six times as large as Switzerland. In this day and age, how can we possibly dispose of this problem without impartially consulting the wishes of this people? Whether from an ethical or from a political point of view, there is no getting away from the fact that no solution of this question will be viable if it is arbitrary and if it is not based on, and sanctioned by, the freely expressed will of the people concerned.

Suppose, in a mood of real politic and mindful only of the changing expediencies of politices and power, we were to try to hustle through what is called a political settlement. It is a likely proposition that this settlement will be conducive to peace if it is opposed by the people involved? It is natural that some men of good will should feel the need for a fresh approach to a problem that has persisted for sixteen years. But —and here is the cold fact of the matter—no fresh approach is likely to be anything but perverse if it does not have the support of the people of Jammu and Kashmir. That is why we remain unshaken in our conviction that any deviation from the principles of the two resolutions will result, not in an easement of the problem, but only in its aggravation.

We have grappled with this question all these years and one thought abides with us. Suppose the state were sponged clear and you were to consider the problem as if had arisen now, not in 1948, but today. What would happen? In your search, however pragmatic, for an equitable settlement, you would be driven to the conclusion that there is only one sure way—the way of finding out what the people of Jammu and

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Kashmir themselves want. You would thus be driven to write again the substance of the resolutions.

At the Concil's meetings in February, it was one of the stark statements of the Indian representative that the resolutions are obsolete. I would like to raise two questions. The first is general. If these resolutions are obsolete, does that mean that the people of Jammu and Kashmir are also obsolete and that their right of self-determination is also obsolete ? The second question is one of even more urgent implications and it needs to be concretely answered by the Security Council, on the one side, and by India, on the other. The question is this : If we accept the position of the Government of India that it regards these resolutions as obsolete, then does not follow that the cease-fire in Kashmir is also obsolete, because there is no other sanction behind the cease-fire than the validity of these resolutions and their acceptance by India and Pakistan ? It is evident that this is not a rhetorical question and we do not ask it in order to score a point. On the contrary, consequences of extremely practical nature will flow from the answer that will be given to us by the Government of India.

We have been gratified by the references made in the statements of the members of the Security Council to the realities of the situation. We welcome the suggestions that a solution must pay due regard to these realities. So people of Jammu and Kashmir are not any less of a reality today than they were in 1949. Will this statement be contested ? The primary reality of the situation is the fact that the passage of time notwithstanding, these people are not reconciled to Indian occupation. The primary reality is their frustration and discontent. She primary reality is their revolt. And the direct consequences of this reality is the fact that the dispute over Kashmir has brought about a threatening confrontation between India and Pakistan. The reality is that there has never been a time when the strain of the dispute in the entire India-Pakistan situation has shown any sign of being eased or when the tensions that it engenders have relaxed.

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It is to these realities that the efforts towards the peaceful solution of this problem have to be oriented if they are to bear any fruit. No so-called fresh approach can discover a substitute for a people's right to self-determination. No fresh approach can improve upon the substance of the resolutions, which is the ascertaining of the popular will in Jammu and Kashmir without coercion, corruption or interference from outside.

These are the considerations that must govern any endeavour towards a settlement, if that endeavour is really a serious one. While there is no doubt that they have been implicit in the thoughts expressed here in the Council, the situation in Jammu and Kashmir demands suitable international action based on them. When I say that this action has been lacking, it will, I hope, be understood that I am not unappreciative of the efforts made by the members of the Security Council during the series of meetings in February to bridge the gulf between the parties. It is, however, discouraging that the spokesmen of the Government of India should have lost no time in distorting the expressed views of the Council members and in questioning the very basis of a consensus. This attitude underlines the necessity of the Council to adopt a precise and concrete formula for setting in motion a process that will result in an amicable and honourable settlement of the dispute. We do not deny the the values of appeals and exhortations. But it is essential that an appeal should constitute an adequate response to the urgent demands of the present situation. A suggestion to the two parties to negotiate is nothing more than an exhortation, unless some insurance is provided for the negotiations to be meaningful. I am certain that there is no member of the Security Council who will be satisfied by the parties merely going through the motions of negotiations and, as a result, increasing a dangerous feeling of futility in Jammu and Kashmir and in India and Pakistan.

We have come here again to offer our co-operation to the Council for the betterment of the situation between India and Pakistan. While we appreciate the spirit of the agreed opinion

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of the members of the Security Council and endorse its contents, we beg to remind the Council that this opinion needs to be clothed in such a form and conveyed in such terms as will tangibly help to move the situation towards a just, a peaceful and an honourable settlement of the dispute of Jammu and Kashmir.

196. *Text of the speech made by Mr. Chakravarty (India) in the Security Council meeting No. 1104 held on 17 March 1964.*

I must first of all thank you, Mr. President, and the members of the Council for giving me the permission of appeal before you in connexion with this case.

It is not my intention to enter into a substantive discussion at this stage on the merits of the Kashmir case since the object of my present intervention is merely to seek an adjournment of the discussion. The circumstances under which the Security Council is now meeting are well known to members, although my delegation is not quite sure if a majority of the members themselves were at any stage convinced of the necessity for this meeting. The Council meets when international peace and security are gravely threatened. The case has been on the record of the Security Council for all these years. It has been the concern of the Security Council to bring the parties together with a view to finding a peaceful solution. The threat to peace and security does not and has never come from us. The sixteen-year-old Pakistani aggression, of course, remains a constant threat so long as it is not vacated.

When the Council met on 3 February 1964 [1087th meeting], our Minister of Education, Mr. Chagla, had urged that there was no new situation in the State of Jammu and Kashmir, and that there was no grave emergency as alleged by Pakistan and as such there was no case for a meeting of the Security Council. The Pakistani plea was one of grave emergency. I would like to ask the Foreign Minister of Pakistan how did this emergency suddenly disappear on 17 February

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1964 [1093rd meeting] when he asked for an adjournment. Obviously, he himself was not satisfied about the emergency. By agreeing to this request for adjournment, the Council also recognized that there was no emergency.

As the Council will recall, the Minister of Education of India, Mr. Chagla, protested against this adjournment and he said :

> "It suits the convenience of the representative of Pakistan to go to Pakistan for a few days and come back. It does not suit me. After all, if it is a question of convenience, the convenience of both parties should be considered.
>
> "Therefore, I strongly oppose any suggestion that this debate should be adjourned for a short time. I am ready to sit here today, tomorrow and the day after tomorrow and conclude these proceedings." [1093rd meeting, paras, 10 and 11.]

Thereafter, on a motion by the representative of Morocco, the Council adjourned under sub-paragraph 2 of rule 33 of the provisional rules of procedure. An adjournment under this rule is an adjournment sine die.

Now the ostensible reason given by the Foreign Minister of Pakistan on 17 February in support of his request for adjornment was to enable him to have consultations with his Government and also to have more time for reflection. We knew that the real reason why the Foreign Minister wished to return to Pakistan was his desire to pay host to the Prime Minister and Foreign Minister of the People's Republic of China. Although this fact was not given out at the time to the Council, Mr. Bhutto openly admitted as much at a press conference in Karachi. As the Council will recall, on 15 February, the Foreign Minister of Pakistan had solemnly declared that : ".. this problem is so difficult and so fundamental to us that all other considerations are superseded when it comes to the question of the problem of Kashmir" [1092nd meeting, para.

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12]. Did the Foreign Minister think that discussions with his visitors were even more important than deliberations in the Security Council ?

We would have hoped that the Security council would convey its displeasure to the Foreign Minister of Pakistan for the cavalier fashion in which he was treating the Council. He calls for a meeting of the Security Council whenever it suits his convenience and asks for an adjournment to suit his own time-table without considering the convenience either of the members of the Security Council or of the Government of India. Despite our objections, the Council, in its wisdom, decided to grant the request of Pakistan and adjourned the meeting *sine die*. Again, when the Foreign Minister of Pakistan asked for yet another meeting, the majority of the members of the Council once more accommodated him in complete (disregard of the convenience of my Government.

In my letter of 8 March 1964 [S/5582], I already conveyed to you, Mr. President, the views of my Government with regard to the holding of a fresh meeting. We have also conveyed to you in that letter the understanding of the Government of India of the circumstances in which the Security Council adjourned. We had also ventured to express our views that a further meeting of the Security Council can be convened only for substantial reasons with due regard for the convenience of the two sides. No such reasons have been furnished by the Permanent Representative on Pakistan in his letter dated 4 March 1964 [S/5576].

The Foreign Minister of Pakistan has now tried to introduce some arguments to justify an urgent meeting on the ground that peace on the cease-fire line in Kashmir is threatened.

The Council will remember that during the period before Pakistan called for the last meeting of the Council on 16 January, Pakistan had taken every opportunity of creating difficulties and bringing about an atmosphere of crisis in

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Kashmir. In his letter of 1 November 1963, the representative of Pakistan had alleged military preparations by India on the cease-fire line and disturbances of the peace in the area of Chaknot. This Pakistani allegation was investigated by the United Nations Chief Military Observer who came to the conclusion that India had concentrated no troops in or in the vicinity of Chaknot, but that, on the contrary, Pakistani troops had been reinforced in the area contrary to the Cease-fire Agreement. Accordingly, he gave an award of "no violation" against India and an award of "violation" against Pakistan. Thus the complaint of the Pakistan Government was proved to be false and baseless.

After the adjournment of the Council at the end of the last series of meetings—the Council will note the dates mentioned by the Foreign Minister—it was Pakistan which tried again to create tension on the cease-fire line, I suppose to enable the Foreign Minister to make out some case for a resumption of the Security Council meeting. It was Pakistan forces which first fired across the cease-fire line and thereby engineered certain clashes. India lodged complaints, as is normal in the circumstances, with the Military Observers about the cease-fire violations. According to our reports, Pakistan rejected a request by the Military Observer Group for an assurance of the safety of the personnel of the United Nations Observer Group who had to be sent to the effected area. India, on the other hand, offered all facilities and co-operation to these personnel. No doubt the United Nations Observer Team will in due course be reporting on these incidents and also on whether it was Pakistan or India which is at fault. These is no reason why the Council should at this stage submit to this kind of pressure from the Government of Pakistan.

Another reason for the urgency of this meeting given by the Foreign Minister is that the new Prime Minister of Kashmir, Mr. Sadiq, has reiterated the demand for the so-called integration of Kashmir with India. The Council will remember that this was the main plea of Pakistan for calling the last

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series of meetings in January 1964. At that time, the Pakistani Foreign Minister had also stated that there was a revolt in Kashmir. During the debate, Mr. Chagla clearly explained to the Council that this charge of so-called integration was a mere propaganda manoeuvre on the part of Pakistan, to create the impression that there was a new situation in Kashmir which of course was not at all true. As he explained at the time, you cannot annex a thing which is already yours, you cannot make more complete what is already complete.

The Government of India fully recognizes that the President of the Council or any member thereof is empowered to call for a meeting on any matter which is borne on the agenda of the Council. At the same time, we feel that this right should be exercised fairly and reasonably. In any meeting of the Council is to be convened, the convenience of the Goverment of Pakistan should not be the only consideration. The convenience of the Government of India certainly deserves equal consideration.

The Council has not once, but twice, taken into consideration the convenience of the Foreign Minister of Pakistan. Is it too much to expect that our convenience should also be taken into account ? The Minister of Education, Mr. Chagla, whom the Government of India has appointed as its representative for the Security Council discussions on Kashmir, is extremely busy now with the budget session of the Indian Parliament. He is also the Leader of the Upper House of the Parliament and, as such, he cannot absent himself from the House during this important session of the Parliament. It is for this reason that we had requested the Council to defer the consideration of this case till the beginning of May 1964, when the budget session of our Parliament is expected to end. If there were in fact a grave situation, or if there had been some developments in which immediate intervention by the Council would have been helpful, that would be another matter. This, however, is not the case.

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Furthermore, no constructive discussions on Kashmir or any of the other outstanding problems can be expected unless and until the Pakistan Government stops the present persecution of its minorities. Members of the Security Council are even now witnessing the large exodus of minorities from East Pakistan into India. It is only with the flight, this time, of the Christian minorities of East Pakistan that the Western countries are now becoming aware of the tragedy that is being enacted there. A reign of terror for the minorities has been let loose in East Pakistan which the Government of Pakistan is either unable or unwilling to control. Acts of violence, deprivation of property, assaults on women, etc., have become the order of the day in East Pakistan. There is a daily influx of over 3,000—I repeat, over 3,000—refugees who are fleeing Pakistan because of calculated persecution and continued insecurity as regards their life and property. Thus, of course, is not a matter before the Council. We realize that, but India is faced with the prospect of hundreds and thousands of refugees pouring into India from East Pakistan. Already over 125,000 refugees have arrived in India. Nearly 75,000 people have fled from one neighbouring district of East Pakistan alone, and of these about 40,000 are Christians. The Government and people of India are directing their resources and energies towards meeting this tremendous human problem and are undertaking measures for rehabilitation and resettlement of this unfortunate people fleeing from persecution by Pakistan. My Government believes that first things must come first. The dimensions of this problem are assuming more and more staggering proportions every day and are a source of grave concerm to my Government. The Government of Pakistan does not seem to be concerned with this human problem, but with a cynical disregard for the suffering of its minorities, is more interested in diversionary tactics and in agitating the Kashmir issue. We, on our part, have already twice made proposals to the Pakistan Government for tackling the problem by joint discussions at the level of Ministers for Home Affairs but that proposal has been turned down.

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My Government owes it to itself and to its people that it should do full justice to its representation in the Security Council on this important question, which is bound up with the unity, territorial integrity and sovereignty of India, against which Pakistan has committed aggression. The main preoccupation should be to make a constructive contribution towards the settlement of this question. For this purpose, and since no constructive advance is possible without the cooperation of both sides, it is necessary that India also should be represented by the Minister who has been specially designated by my Government to deal with this issue. It is relevant to point out that Pakistan is represnted by its Minister of Foreign Affairs. In case the Security Council wishes to make a constructive advance, it should enable our Minister to participate in the discussions of the Council and to consider any proposals or suggestions that may come up. As I have stated earlier, there was no justification for an urgent meeting of the Security Council in February. There is no urgency for a meeting now either. In this view, I formally request that the Council be good enough to adjourn to any day in the first week of May 1964.

This is a very reasonable request, and I hope the Council will accede to it. I also hope that the Foreign Minister of Pakistan will give some consideration to our convenience and will find it possible to co-operate with us in this respect.

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